



# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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FILE COPY

May 26, 1992

TO: AD-HOC COMMITTEE, Permit Format  
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FROM: Randy Harden 

RE: Permit Form and Format Agenda

**Reminder - The next AD-HOC Meeting is June 15, 1992 in Salt lake at 10:00 am.**

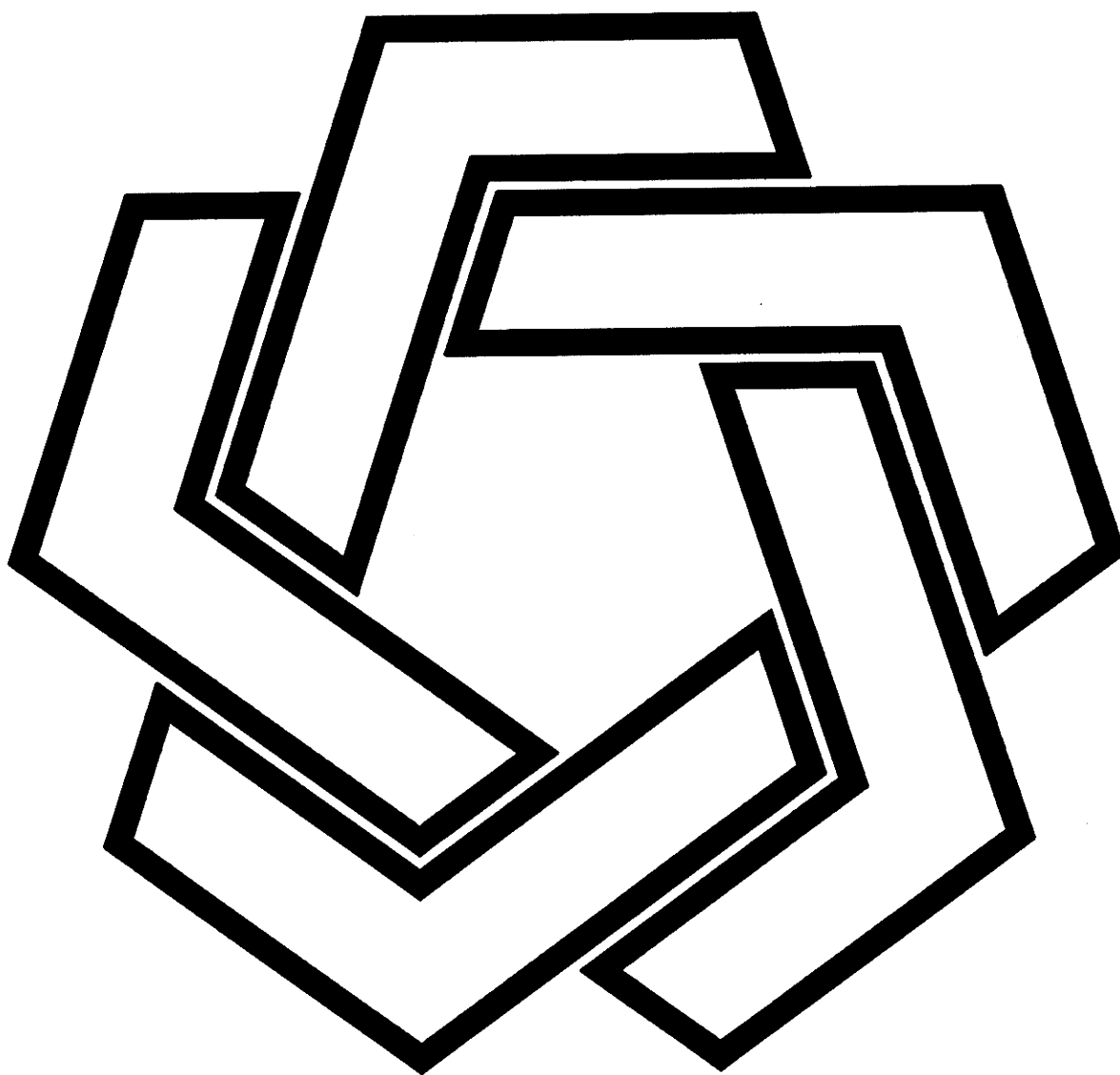
Enclosed with this memo is a DRAFT of some of the work that has previously been done on form and format by the Division. Please use this information only as a guide to help begin the process of outlining and structuring a workable form and format document.

Supplied with this draft copy is a copy of the Rules on Disk for your use.

If you have any problem using the disks provided or have comments provided prior to our next meeting, do not hesitate to call.

Thank you all for your help.

**PERMIT APPLICATION INFORMATION  
FOR  
UTAH COAL MINE OPERATIONS**



**State of Utah  
Department of Natural Resources  
Division of Oil, Gas and Mining**

# PERMIT APPLICATION INFORMATION

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# **PERMIT APPLICATION INFORMATION**

## **DIVISION REQUIREMENTS**





**I. INTRODUCTION**

Information regarding coal mining and reclamation permit applications and a copy of the rules pertaining to coal mining can be obtained from:

**STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING  
355 WEST NORTH TEMPLE  
3 TRIAD CENTER, SUITE 350  
SALT LAKE CITY UT 84180-1203  
(801) 538-5340**

For the purposes of this document, the following definitions shall be used:

**"Division"** Division shall mean the State of Utah, Department of Natural Resources, Division of Oil, Gas and Mining (DOGM).

**"Permittee"** Permittee shall mean the person who must first apply for and obtain a permit from the Division prior to conducting commercial coal mining and reclamation activities in the state of Utah.

**"OSM (OSMRE)"** OSM or OSMRE shall mean the Office of Surface Mining Reclamation and Enforcement.

Permit application information provided in this document represent a guideline to the R645 Coal Mining Rules. While Permittees are encouraged to use the form and format indicated in this document when applying for a new permit, permit renewal or permit revision, it is not considered mandatory at this time.

Permittees must however provide all the information that is required in accordance with the R645 Coal Mining Rules. This form represents the minimum information that is required to submit a permit application. Substantial additional information may be required to ensure compliance with Federal, State and Local regulations in addition to the R645 Rules.

Regardless of how information is presented in the permit application package, the burden of compliance is on the Permittee to provide complete and accurate information, designs and drawing and that coal mining and reclamation activities are conducted in accordance with all Federal, State and Local regulations.

Where needed, a reference to applicable rules has been provided at the beginning of each section of the permit application information provided in this document. A cross reference between the R645 Coal Mining Rules and the various sections found within this document

is attached for ready reference to the location of information required by a specific rule number.

## II. DIVISION AUTHORITY

R645-300-112.

Promulgation of the rules and regulations cited herein are the result of Public Law 95-87, the "**Surface Mining Control and Reclamation Act of 1977**", better known as **SMCRA**. This law provided for the entitlement of the Department of Interior, Office of Surface Mining Reclamation and Enforcement (OSMRE), to administer programs for the controlling of surface coal mining operations as defined under SMCRA. TITLE V, of P.L. 95-87, outlines the procedures for state and federal regulatory programs to control and direct surface and underground coal mining and reclamation operations. Utah requested and established a State Program for establishing jurisdiction over the regulation over surface coal mining and reclamation operations under the Department of Natural Resources, Division of Oil, Gas and Mining (DOGM).

Prior to conducting commercial coal mining operations in the state of Utah, application and approval of a permit to conduct mining and reclamation activities must be obtained. In accordance with Utah Code Annotated, Title 40, Chapter 10, and, the Utah Administrative Rules, R645 - Coal Mining Rules, application and approval for a permit must be obtained from the Division of Oil, Gas and Mining.

The Division has the responsibility to approve or disapprove permits under the approved State Program. The Division and persons applying for permits under the State Program will involve the public throughout the permit process of the State Program. The Division will assure implementation of the requirements under the State Program.

All persons who engage in and carry out any coal mining and reclamation operations will first obtain a permit from the Division. The Permittee will provide all information in an administratively complete application for review by the Division in accordance with the R645 Rules and the State Program.

## III. AUTHORITY RESERVED BY THE SECRETARY

30 CFR 745.13

The Secretary of the Department of the Interior has reserved authority on certain requirements for Federal lands. Under the cooperative agreement and the State Program, the Secretary shall not delegate to the State, authority to:

1. Designate Federal lands as unsuitable for surface coal mining under Subchapter F of this Chapter or terminate such designations;

2. Comply with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq., and Federal laws and regulations other than the Act;
3. Develop land-use management plans for Federal lands where the surface estate is federally owned;
4. Regulate noncoal mining activities on Federal lands;
5. Determine when, where, and how to lease Federal coal and how much to lease;
6. Develop terms for Federal coal leases, including any special terms relating to mining and reclamation procedures;
7. Evaluate Federal coal resources;
8. Establish royalties, rents, and bonuses charged in connection with Federal coal leases;
9. Approve mining plans or modifications thereto;
10. Enforce Federal lease terms, including diligent- development and maximum economic-recovery requirements;
11. Approve or determine post-mining land uses for Federal lands where the surface estate is federally owned;
12. Release Federal lease bonds;
13. Evaluate the State's administration and enforcement of the approved State program and implementation of the cooperative agreement on Federal lands;
14. Comply with the inspection, enforcement, and civil penalties requirements of Parts 842 and 843 of this Chapter except as provided under Section 740.4(c)(5) of this Chapter;
15. Determine valid existing rights for surface coal mining and reclamation operations on Federal lands within the boundaries of any areas specified under Section 522(e)(1) or (2) of the Act;  
or
16. Determine that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining and reclamation operations on any Federal

lands within the boundaries of any national forest under Section 522(e)(2) of the Act.

Although the above determinations cannot be made by the Division, the information required for determination of the above as applicable to the permit application package for coal mining must be submitted by the Permittee. Any changes to the mining and reclamation plan which involve the above determinations will require Federal approval.

#### **IV. COORDINATION WITH REQUIREMENTS UNDER OTHER LAWS**

R645-300-113.

The Division will provide for the coordination of review and issuance of permits for coal mining and reclamation operations with applicable requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.); the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661 et seq.); the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 et seq.); The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); the Bald Eagle Protection Act, as amended 16 U.S.C. 668a); and where federal and Indian lands covered by that Act are involved, the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.); and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

Those Federal and State agencies implementing the above requirements shall work through the Division in the permitting process. Coordination of review between the Division and these agencies and issuance of a permit by the Division will constitute compliance and permit approval with these other agencies.

The Permittee may contact those agencies to complete the coordination and consultation for information required by certain items to be included in the permit application prior to submission of the application to the Division.

#### **V. OTHER AGENCIES WHICH ARE NOT PART OF THE PERMIT COORDINATING PROCESS.**

R645-300-120.

Numerous other agencies and regulatory requirements can apply to coal mining and reclamation operations which are not part of the permit coordinating process. It shall be the burden of the Permittee to comply with all federal, state and local regulations that may apply to the coal mining and reclamation activities.

All federal or state governmental agencies with authority to issue permits and licenses applicable to the proposed coal mining and reclamation operation and which are part of the permit coordinating process developed in accordance with the State Program, Section 503(a)(6) or Section 504(h) of P.L. 95-87, or 30 CFR 733.12; or those agencies with an interest in the proposed coal mining and reclamation operation, including the U.S. Department of Agriculture Soil Conservation Service district office, the local U.S. Army

Corps of Engineers district engineer, the National Park Service, state and federal fish and wildlife agencies, and Utah State Historic Preservation Officer.

Table IV-1 includes several of the federal, state and local permits that may be required in conjunction with coal mining and reclamation operations. Other permits and licenses which have not been listed in this table may also be required in conjunction with obtaining coal leases, coal exploration activity, mining and reclamation operations. Those agencies which conduct mining and reclamation permit activities in cooperation with and under the coordination of the Division are noted as such in Table IV-1.

**TABLE IV-1 PERMITTING AGENCIES**

PERMITTING AGENCY	PERMIT DESCRIPTION	REQUIREMENTS
<b>OFFICE OF SURFACE MINING (OSM)</b> 1025 15TH STREET DENVER CO 80202	1. COAL EXPLORATION PERMITS  2. MINING AND RECLAMATION PERMIT  3. COAL PROCESSING PLANTS NOT LOCATED WITHIN THE AREA OF A MINE	Permitting authority delegated to the state of Utah under cooperative agreement. See 30 CFR Part 944.
<b>ENVIRONMENTAL PROTECTION AGENCY (EPA)</b> 999 18TH STREET ONE DENVER PLACE DENVER CO 80202-2413	1. PSD PERMIT (Air) a. Process Emissions b. Impact of Secondary Growth c. Air Cleaning Equipment  2. OIL SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN a. Facility Drainage b. Bulk Storage Tanks c. Transfer Operations d. Loading and Unloading  3. NPDES PERMITS (UPDES PERMITS) (water) a. Sediment Ponds b. Mine Water Discharge c. Other water treatment discharge	Permit approval required prior to construction.   Must be on file within 6 months after oil storage begins.   Processed by State and approved by EPA. Application must be filed 180 days prior to discharge.
<b>PRICE COAL OFFICE</b> <b>BUREAU OF LAND MANAGEMENT</b> 900 NORTH 700 EAST PRICE, UTAH 84501  <b>BUREAU OF LAND MANAGEMENT</b> <b>DISTRICT OFFICE</b> 82 EAST DOGWOOD P.O. BOX 970 MOAB, UTAH 84532  <b>BUREAU OF LAND MANAGEMENT</b> <b>CEDAR CITY DISTRICT</b> 1579 NORTH MAIN STREET P.O. BOX 724 CEDAR CITY, UTAH 84720	1. RIGHT-OF-WAY PERMITS a. Roads b. Power Lines c. Pipe Lines d. Any other structures on BLM Land  2. MINING AND RECLAMATION PLAN  3. R2P2	Permits required prior to construction.   In coordination with DOGM Permit Approval.  Resource Recovery and Protection Plan in association with lease acquisition.

## DIVISION REQUIREMENTS

TABLE IV-1 PERMITTING AGENCIES (CONTINUED)

PERMITTING AGENCY	PERMIT DESCRIPTION	REQUIREMENTS
<b>BRANCH OF MINING LAW AND SOLID MINERALS BUREAU OF LAND MANAGEMENT</b> 324 SOUTH STATE STREET, SUITE 301 P.O. BOX 45155 SALT LAKE CITY, UTAH 84145-0155	1. MINING AND RECLAMATION PLAN	In coordination with DOGM Permit Approval.
<b>U.S. FISH AND WILDLIFE SERVICES ECOLOGICAL SERVICES</b> 2060 ADMINISTRATION BUILDING 1745 WEST 1700 SOUTH SALT LAKE CITY, UTAH 84104-5110	1. MINING AND RECLAMATION PLAN	In coordination with DOGM Permit Approval.
<b>U.S. ARMY CORPS OF ENGINEERS</b> 125 SOUTH STATE SALT LAKE CITY UT 84138	1. INDIVIDUAL 404 PERMIT 2. STATE-WIDE 404 PERMIT	Permit required prior to construction in navigable water, backup water or US water.
<b>MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)</b> 1745 WEST 700 NORTH SALT LAKE CITY UT 84116	1. SAFETY PLAN 2. ROOF CONTROL PLAN 3. VENTILATION PLAN 4. REFUSE PILE PLAN 5. IMPOUNDMENT PLAN	Permits required prior to construction.
<b>U.S. FOREST SERVICE MANTI-LASAL NATIONAL FOREST</b> 599 WEST PRICE RIVER DRIVE PRICE UT 84501  <b>U.S. FOREST SERVICE FISHLAKE NATIONAL FOREST</b> 115 EAST 900 NORTH RICHFIELD UT 84701	1. MINING AND RECLAMATION PLAN 2. SPECIAL USE PERMITS a. Roads b. Air Quality Monitoring 3. DRILLING PERMITS a. Exploration Drilling b. Seismic Drilling c. Well Drilling d. Water Monitoring Well Drilling	In coordination with DOGM Permit Approval.  Permits required prior to construction.  Permits required prior to conducting drilling activities.
<b>U.S. COAST GUARD</b>	1. SECTION 404 BRIDGE PERMIT	Permit required prior to construction.
<b>FEDERAL AVIATION ADMINISTRATION</b> 2150 WEST 700 NORTH SALT LAKE CITY UT 84116	1. TOWER PERMIT a. For structures over regulation height	Permit required prior to construction.
<b>U.S. SOIL CONSERVATION SERVICE (SCS)</b> 125 SOUTH STATE SALT LAKE CITY UT 84138	1. SOIL SURVEYS 2. VEGETATION SURVEYS 3. RECOMMENDED REVEGETATION	Permit not required but coordination efforts are recommended.
<b>US GEOLOGIC SURVEY (USGS)</b> 125 SOUTH STATE SALT LAKE CITY UT 84138	1. PRE-1979 MINING AND RECLAMATION PLAN (Previously referred to as 202 Permits.)	Permit through the USGS is no longer required.

## TABLE IV-1 PERMITTING AGENCIES (CONTINUED)

PERMITTING AGENCY	PERMIT DESCRIPTION	REQUIREMENTS
FEDERAL COMMUNICATIONS COMMISSION	1. LICENSE REQUIREMENTS FOR RADIO SERVICE	Prior to usage.
U.S. TREASURY DEPARTMENT	1. USE OF EXPLOSIVES a. During Construction b. During Operation	Permit Required prior to usage.
UTAH DIVISION OF OIL, GAS AND MINING (DOGM) SUITE 350 3 TRIAD CENTER SALT LAKE CITY UT 84180 (801) 538 - 5340	1. COAL EXPLORATION PERMITS  2. MINING AND RECLAMATION PERMIT  3. COAL PROCESSING PLANTS NOT LOCATED WITHIN THE AREA OF A MINE	These permits are required prior to conducting coal exploration, mining and reclamation, and coal processing activities under authority of cooperative agreement with the Office of Surface Mining.
UTAH DIVISION OF STATE HISTORY 300 RIO GRANDE SALT LAKE CITY, UTAH 84101	1. MINING AND RECLAMATION PLAN	In coordination with DOGM Permit Approval.
UTAH DIVISION OF WILDLIFE RESOURCES 1596 WEST NORTH TEMPLE SALT LAKE CITY, UTAH 84116  UTAH DIVISION OF WILDLIFE RESOURCES 455 WEST RAILROAD AVENUE PRICE, UTAH 84501	1. MINING AND RECLAMATION PLAN	In coordination with DOGM Permit Approval.
STATE ENGINEER UTAH DIVISION OF WATER RIGHTS DEPARTMENT OF NATURAL RESOURCES 1636 WEST NORTH TEMPLE SALT LAKE CITY, UTAH 84116	1. MINING AND RECLAMATION PLAN  2. PERMIT TO RELOCATE STREAM  3. DAM AND IMPOUNDMENT APPROVAL  4. POINT OF DIVERSION CHANGE APPLICATIONS  5. 100' BUFFER ZONE VARIANCE  6. WATER WELL PERMIT  7. MONITORING WELL PERMIT	In coordination with DOGM Permit Approval.  Permit prior to construction.  Permit prior to construction.  Permit prior to construction.  Permit prior to construction.  Water wells and monitoring wells require application by a certified water well driller and completion reports following well drilling.
DIVISION OF STATE LANDS AND FORESTRY 3 TRIAD CENTER, SUITE 400 355 WEST NORTH TEMPLE SALT LAKE CITY, UTAH 84180-1204	1. MINING AND RECLAMATION PLAN  2. COAL EXPLORATION PERMIT  3. STATE COAL LEASE ACQUISITION	In coordination with DOGM Permit Approval.   Prior to mining state coal.

TABLE IV-1 PERMITTING AGENCIES (CONTINUED)

PERMITTING AGENCY	PERMIT DESCRIPTION	REQUIREMENTS
<b>UTAH DEPARTMENT OF HEALTH DIVISION OF ENVIRONMENTAL HEALTH</b> 288 NORTH 1460 WEST P. O. BOX 16690 SALT LAKE CITY, UTAH 84116-0690	1. MINING AND RECLAMATION PLAN  2. UPDES PERMITS (NPDES PERMITS) (water) a. Sediment Ponds b. Mine Water Discharge c. Other water treatment discharge	In coordination with DOGM Permit Approval.  Processed by State and approved by EPA. Application must be filed 180 days prior to discharge.
<b>UTAH INDUSTRIAL COMMISSION (MINE HEALTH AND SAFETY)</b> 160 EAST 300 SOUTH SALT LAKE CITY UT 84111	1. NOTICE OF INTENT TO MINE  2. PERMIT TO OPERATE EQUIPMENT  3. EXPLOSIVE STORAGE  4. GROUND CONTROL PLAN	At start of employment.  At start of equipment operation.  Prior to storing explosives.  Prior to mining.
<b>COUNTIES</b>  <b>EMERY COUNTY PLANNING AND ZONING</b> P.O. BOX 297 CASTLE DALE, UTAH 84513	1. RIGHT-OF-WAY PERMITS  2. BUILDING PERMITS  3. SEWAGE DISPOSAL SYSTEM  4. GRADING PERMIT  5. BURNING PERMIT  6. ELECTRICAL PERMITS  7. COUNTY ROAD - OVERLAND APPROVAL  8. ZONING PERMITS  9. COUNTY COMMISSIONERS REVIEW	Permit approval requirements and restrictions vary from county to county.
<b>CITIES AND LOCALITIES</b>  <b>SOUTHEASTERN UTAH ASSOCIATION OF LOCAL GOVERNMENTS</b> P.O. BOX 1106 PRICE, UTAH 84501	1. SIMILAR TO COUNTY REQUIREMENTS	Permit requirements vary from each locality with Utah.

## VI. COMPLETENESS

R645-301-150.

In order for the Division to approve the Permittee's permit application and provide approval to conduct mining and reclamation activities, the application must be determined complete by the Division. A complete plan must include all of the information required in accordance with the rules and regulations pertaining to coal mining under R645-301 and R645-302. Once a plan has been considered complete, the Division must allow for public participation



and comment prior to issuance of final approval to conduct mining and reclamation activities.

## **VII. PUBLIC PARTICIPATION**

R645-300-120.

Upon submission of an administratively complete application, an applicant for a permit, significant revision of a permit or renewal of a permit will place an advertisement in a local newspaper of general circulation in the locality of the proposed coal mining and reclamation operation at least once a week for four consecutive weeks. A copy of the advertisement as it will appear in the newspaper will be submitted to the Division. The advertisement will contain, at a minimum, the following:

1. The name and business address of the Permittee;
2. A map or description which clearly shows or describes the precise location and boundaries of the proposed permit area and is sufficient to enable local residents to readily identify the proposed permit area. It may include towns, bodies of water, local landmarks, and any other information which would identify the location. If a map is used, it will indicate the north direction;
3. The location where a copy of the application is available for public inspection;
4. The name and address of the Division, where written comments, objections, or requests for informal conferences on the application may be submitted.
5. If the Permittee seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing have previously been provided for this particular part of the road; a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing; and
6. If the application includes a request for an experimental practice, a statement indicating that an experimental practice is requested and identifying the regulatory provisions for which a variance is requested.

The Permittee will make an application for a permit, significant revision, or renewal of a permit available for the public to inspect and copy by filing a full copy of the application with the recorder at the courthouse of the county where the coal mining and reclamation

**DIVISION REQUIREMENTS**

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operation is proposed to occur, or an accessible public office approved by the Division. This copy of the application need not include confidential information exempt from disclosure. The application will be filed by the first date of newspaper advertisement of the application. The Permittee will file any changes to the application with the public office at the same time the change is submitted to the Division.

Upon receipt of an administratively complete application for a permit, a significant revision to a permit, or a renewal of a permit, the Division will issue written notification indicating the Permittee's intention to conduct coal mining and reclamation operations within the described tract of land, the application number or other identifier, the location where the copy of the application may be inspected, and the location where comments on the application may be submitted. The notification will be sent to:

1. Local governmental agencies with jurisdiction over or an interest in the area of the proposed coal mining and reclamation operation, including but not limited to planning agencies, sewage and water treatment authorities, water companies; and
2. All federal or state governmental agencies with authority to issue permits and licenses applicable to the proposed coal mining and reclamation operation and which are part of the permit coordinating process developed in accordance with the State Program, Section 503(a)(6) or Section 504(h) of P.L. 95-87, or 30 CFR 733.12; or those agencies with an interest in the proposed coal mining and reclamation operation, including the U.S. Department of Agriculture Soil Conservation Service district office, the local U.S. Army Corps of Engineers district engineer, the National Park Service, state and federal fish and wildlife agencies, and Utah State Historic Preservation Officer.

Within 30 days of the last newspaper publication, written comments or objections to an application for a permit, significant revision to a permit, or renewal of a permit may be submitted to the Division by public entities notified with respect to the effects of the proposed coal mining and reclamation operation on the environment within their areas of responsibility.

Written objections to an application for a permit, significant revision to a permit, or renewal of a permit may be submitted to the Division by any person having an interest which is or may be adversely affected by the decision on the application, or by an officer or head of any federal, state, or local government agency or authority, within 30 days after the last publication of the newspaper notice.

The Division will upon receipt of such written comments or objections: transmit a copy of the comments or objections to the Permittee; and, file a copy for public inspection at the Division.

Any person having an interest which is or may be adversely affected by the decision on the application, or an office or a head of a federal, state, or local government agency, may request in writing that the Division hold an informal conference on the application for a permit, significant revision to a permit, or renewal of a permit. The request will:

1. Briefly summarize the issues to be raised by the requestor at the conference.
2. State whether the requestor desires to have the conference conducted in the locality of the proposed coal mining and reclamation operation.
3. Be filed with the Division no later than 30 days after the last publication of the newspaper advertisement.

If an informal conference is requested, the Division will hold an informal conference within 30 days following the receipt of the request. The informal conference will be conducted as follows:

1. If requested, the informal conference will be held in the locality of the proposed coal mining and reclamation operation.
2. The date, time, and location of the informal conference will be sent to the Permittee and other parties to the conference and advertised by the Division in a newspaper of general circulation in the locality of the proposed coal mining and reclamation operation at least two weeks before the scheduled conference.
3. If requested in writing by a conference requestor at a reasonable time before the conference, the Division may arrange with the Permittee to grant parties to the conference access to the proposed permit area and, to the extent that the Permittee has the right to grant access to it, to the adjacent area prior to the established date of the conference for the purpose of gathering information relevant to the conference.
4. The requirements of the Procedural Rules of the Board of Oil, Gas and Mining (R641 Rules) will apply to the conduct of the informal conference. The conference will be conducted by a representative of the Division, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record will be made of the conference, unless waived by all the parties. The record will be maintained and will be accessible to the parties of the conference until final release of the Permittee's performance bond.

**DIVISION REQUIREMENTS**

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5. If all parties requesting the informal conference withdrew their request before the conference is held, the informal conference may be canceled.
6. An informal conference may be used by the Division as the public hearing on proposed relocation or closing of public roads.

All applications for permits; permit changes; permit renewals; and transfers, assignments or sales of permit rights on file with the Division will be made available, at reasonable times, for public inspection and copying. Information pertaining to coal seams, test borings, core samplings, or soil samples in an application will be made available to any person with an interest which is or may be adversely affected. Information will be made available to the public when such information is required to be on public file pursuant to Utah law.

**VIII. CONFIDENTIAL INFORMATION**

R645-300-124.300.

The Division will provide procedures, including notice and opportunity to be heard for persons both seeking and opposing disclosure, to ensure confidentiality of qualified confidential information, which will be clearly identified by the Permittee and submitted separately from the remainder of the application. Confidential information is limited to:

1. Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of such coal which are potentially toxic in the environment;
2. Information required under section 40-10-10 of the Act that is authorized by that section to be held confidential and is not on public file pursuant to Utah law and that the Permittee has requested in writing to be held confidential; and
3. Information on the nature and location of archeological resources on public land and Indian land as required under the Archeological Resources Protection Act of 1979 (P. L. 96-95, 93 Stat. 721, 16 U.S.C. 470).

**IX. FINDINGS**

R645-300-133.

No permit application or application for a permit change will be approved unless the application affirmatively demonstrates and the Division finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

1. The Division must determine that the application is complete and accurate and the Permittee has complied with all the requirements of the State Program.
2. The Division must make a finding that the proposed permit area is not within an area designated as unsuitable for mining, or, not within an area under study or administrative proceedings under a petition to have an area designated as unsuitable for coal mining and reclamation operations, unless the Permittee demonstrates that before January 4, 1977, substantial legal and financial commitments were made in relation to the operation covered by the permit application.
3. For coal mining and reclamation operations where the private mineral estate to be mined has been severed from the private surface estate, the Permittee must submit adequate documentation for surface owner consent and proof of the right to mine coal so that the Division may find that the Permittee has the authority to conduct mining and reclamation operations within the permit area.
4. The Division must make an assessment of the probable cumulative impacts (CHIA) of all anticipated coal mining and reclamation operations on the hydrologic balance in the cumulative impact area and determine that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.
5. The Division must find that the operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et.seq.).
6. The Division must take into account, the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Division has determined that no additional protection measures are necessary.
7. The Division must find that the Permittee has demonstrated that reclamation as required by the State Program can be

**DIVISION REQUIREMENTS**

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- accomplished according to information given in the permit application.
8. The Division must find that any existing structure will comply with the applicable performance standards.
  9. The Division must find that the Permittee has paid all reclamation fees from previous and existing coal mining and reclamation operations.
  10. The Division must find that the Permittee has satisfied all of the applicable requirements found under Special Categories and Areas of Mining.
  11. If applicable, the Division must determine that the plan has satisfied the requirements for approval of a long-term, intensive agricultural postmining land use, in accordance with the requirements for lands used as croplands.
  12. For a proposed remining operation where the Permittee intends to reclaim previously disturbed areas, the Division must find that mining and reclamation is in accordance with those specific requirements for operations within a previously mined area.

**X. CUMULATIVE HYDROLOGIC IMPACT ASSESSMENT**

R645-300-133.400.

"Cumulative Hydrologic Impact Assessment" (CHIA) means an assessment of the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and groundwater systems. Anticipated mining will include, at a minimum, the entire projected lives through bond releases of the proposed operation, all existing operations, any operation for which a permit application has been submitted to the Division, and, all operations required to meet diligent development requirements for leased federal coal for which there is actual mine development information available.

The CHIA is derived from regional baseline information available through the Division and other federal and state agencies as well as site specific information presented in the mining and reclamation plan by the Permittee. The impact on the area is to be assessed by the Permittee and is presented in the plan as the "Probable Hydrologic Consequences" (PHC) resulting from mining and reclamation operations. The regional information for the area is used in conjunction with the PHC presented in the mining and reclamation plan to develop the CHIA.

The CHIA information is presented by the Division in the findings and conclusions document which is part of the final permit document for mining and reclamation activities.

**XI. LANDS UNSUITABLE**

R645-103-

The Board and Division are authorized to establish a data base and inventory system and a petition process to designate any nonfederal and non-Indian land areas of Utah as unsuitable for all or certain types of coal mining and reclamation operations.

The Board and Division will integrate as closely as possible decisions to designate lands as unsuitable for coal mining and reclamation operations with present and future land use planning and regulatory processes at the state and local levels.

The Division will use a process that allows any person having an interest which is or may be adversely affected by coal mining and reclamation operations on nonfederal and non-Indian lands to petition the Board to have an area designated as unsuitable for all or certain types of coal mining and reclamation operations, or to have a designation terminated.

The Division will prohibit or limit coal mining and reclamation operations on certain lands and in certain locations designated by Section 40-10-24 of the Act.

**AREAS DESIGNATED BY ACT OF CONGRESS**

The authority to make determinations of unsuitability on federal lands is reserved to the Secretary.

Valid and Existing Rights (VER). VER determinations on federal lands are reserved to the Secretary, consistent with the terms of a cooperative agreement between the Secretary and Utah pursuant to section 523(c) of the Federal Act.

VER on nonfederal lands which affect adjacent federal lands are the responsibility of the Division consistent with the terms of the cooperative agreement.

On federal lands within the boundaries of a national forest the Division will be responsible for coordination with the Secretaries of Interior and Agriculture, as appropriate, to ensure that mining is permissible under 30 CFR 761.11(b) and the Federal Act.

Upon receipt of a complete application for a permit to conduct coal mining and reclamation operations, the Division will review the application to determine whether coal mining and reclamation operations are limited or prohibited under 40-10-24(4) of the Act or 30 CFR 761.11(a) and (b) on the lands which would be disturbed by the proposed operations.

Where the proposed operations would be located on any lands listed in Section 40-10-24(4)(a) and (d) or 30 CFR 761.11, the Division will reject the application if the Permittee has no valid existing rights for the area, or if the activity did not exist on August 3, 1977.

**DIVISION REQUIREMENTS**

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If the Division is unable to determine whether the proposed activities are located within the boundaries of any of the lands listed in 40-10-24(4)(a) or 30 CFR 761.11(a) and (b) or closer than the limits provided in 40-10-24(4)(d) of the Act, the Division will transmit a copy of the relevant portions of the permit application to the appropriate federal, Utah, or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it has 30 days from receipt of the request in which to respond. The National Park Service or the U.S. Fish and Wildlife Service will be notified of any request for a determination of valid existing rights pertaining to areas within the boundaries of areas under their jurisdiction and will have 30 days from receipt of the notification in which to respond. The Division, upon request by the appropriate agency, will grant an extension to the 30-day period of an additional 30 days. If no response is received within the 30-day period, or within the extended period granted, the Division may make the necessary determination based on the information it has available.

Where the coal mining and reclamation operation is proposed to be conducted within 100 feet, measured horizontally, of the outside right-of-way line of any public road (except as provided in 40-10-24(4)(c), or where the Permittee proposes to relocate or close any public road, the Division or public road authority designated by the Division will:

1. Require the Permittee to obtain necessary approvals from the authority with the jurisdiction over the public road;
2. Provide an opportunity for a public hearing in the locality of the proposed coal mining and reclamation operation for the purpose of determining whether the interests of the public and affected landowners will be protected;
3. If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least two weeks prior to the hearing; and
4. Make a written finding based upon information received at the public hearing within 30 days after completion of the hearing, or after any public comment period ends if no hearing is held, as to whether the interests of the public and affected landowners will be protected from the proposed coal mining and reclamation operation. No mining will be allowed within 100 feet of the outside right-of-way line of a road, nor may a road be relocated or closed, unless the Division or public road authority determines that the interests of the public and affected landowners will be protected.

Where the proposed coal mining and reclamation operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit applicant will submit with



the application a written waiver by lease, deed, or other conveyance from the owner of the dwelling, clarifying that the owner and signatory had the legal right to deny mining and knowingly waived that right. The waiver will act as consent to such activities within a closer distance of the dwelling as specified.

Where the applicant for a permit has obtained a valid waiver prior to August 3, 1977, from the owner of an occupied dwelling to mine within 300 feet of such dwelling, a new waiver will not be required.

Where the applicant for a permit had obtained a valid waiver from the owner of an occupied dwelling, that waiver will remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase.

A subsequent purchaser will be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to Utah laws, or if the coal mining and reclamation operation has proceeded to within the 300-foot limit prior to the date of purchase.

Where the Division determines that the proposed coal mining and reclamation operation will adversely affect any publicly owned park or any place included in the National Register of Historic Places, the Division will transmit to the federal, Utah, or local agency with jurisdiction over the publicly owned park or National Register place, a copy of applicable parts of the permit application, together with a request for that agency's approval or disapproval of the activity, and a notice to that agency that it has 30 days from receipt of the request within which to respond and that failure to interpose a timely objection will constitute approval. The Division, upon request by the appropriate agency, may grant an extension to the 30-day period of an additional 30 days. Failure to interpose an objection within 30 days, or the extended period granted, will constitute an approval of the proposed permit. A permit for the coal mining and reclamation operation will not be issued unless jointly approved by all agencies.

If the Division determines that the proposed coal mining and reclamation operation is not prohibited, it may nevertheless, pursuant to appropriate petitions, designate such lands as unsuitable for all or certain types of coal mining and reclamation operations.

A determination by the Division that a person holds or does not hold valid existing rights or that coal mining and reclamation operations did or did not exist on the date of enactment will be subject to administrative and judicial review.

#### **UTAH CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR MINING**

The Division will evaluate each petition for the designation of nonfederal and non-Indian areas as unsuitable for coal mining and reclamation operations.

**DIVISION REQUIREMENTS**

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Upon petition, an area will be designated as unsuitable for all or certain types of coal mining and reclamation operations if the Division determines that reclamation is not technologically and economically feasible under the State Program.

Upon petition, an area may be (but is not required to be) designated as unsuitable for certain types of coal mining and reclamation operations, if the operations will:

1. Be incompatible with existing state or local land use plans or programs;
2. Affect fragile or historic lands in which the activities could result in significant damage to important historic, cultural, scientific, or aesthetic values or natural systems;
3. Affect renewable resource lands in which the activities could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or
4. Affect natural-hazard lands in which the operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

The above requirements do not apply to land exempt from designation as unsuitable for coal mining and reclamation operations which meet the following criteria:

1. Lands on which coal mining and reclamation operations were being conducted on August 3, 1977;
2. Lands covered by a permit issued under the Act; or
3. Lands where substantial legal and financial commitments in coal mining and reclamation operations were in existence prior to January 4, 1977.

Designation of any area as unsuitable for all or certain types of coal mining and reclamation operations does not prohibit coal exploration in the area, if conducted in accordance with applicable provisions of the State Program or under the terms of a State/Federal cooperative agreement. Coal exploration on any lands designated unsuitable for coal mining and reclamation operations must be approved by the Division to ensure that exploration does not interfere with any value for which the area has been designated unsuitable for coal mining and reclamation operations.

The Board has the authority to develop programs, procedures, and standards to designate nonfederal and non-Indian lands unsuitable for all or certain types of coal mining and reclamation operations and for terminating such designations.

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PETITION REQUIREMENTS

Any person having an interest which is or may be adversely affected has the right to petition the Board to have an area designated as unsuitable for coal mining and reclamation operations, or to have an existing designation terminated. For the purpose of this action, a person having an interest which is or may be adversely affected must demonstrate how he or she meets an "injury-in-fact" test by describing the injury to his or her specific affected interests and demonstrate how he or she is among the injured.

A petitioner will file a petition for termination of a designation using forms provided by the Division. The petitioner may provide information in addition to that required by the Division, however, failure to provide such information will not jeopardize review of the petition for termination or constitute a reason for rejection of the petition.

Unless a hearing or period of written comments is provided for, the Division will, within 30 days of receipt of a petition, notify the petitioner by certified mail whether or not the petition is complete. Complete, for a designation or termination petition, means that the information required using the Division's forms has been provided.

The Division will determine whether any identified coal resources exist in the area covered by the petition, without requiring any showing from the petitioner. If the Division finds that there are not any identified coal resources in that area, it will return the petition to the petitioner with a statement of the findings.

If the Division determines that the petition is incomplete, frivolous, or that the petitioner does not meet the requirements for a complete petition, it will return the petition to the petitioner with a written statement of the reasons for the determination and the categories of information needed to make the petition complete. A frivolous petition is one in which the allegations of harm lack serious merit.

When considering a petition for an area which was previously and unsuccessfully proposed for designation, the Division will determine if the new petition presents significant new allegations of fact with evidence which tends to establish the allegations. If the petition does not contain such material, the Division may choose not to consider the petition and may return the petition to the petitioner, with a statement of its findings and a reference to the record of the previous designation proceedings where the facts were considered.

The Division will notify the person who submits a petition of any application for a permit received which includes any area covered by the petition.

The Division may determine not to process any petition received insofar as it pertains to lands for which an administratively complete permit application has been filed and the first newspaper notice has been published. Based on such a determination, the Division may issue a decision on a complete and accurate permit application and will inform the petitioner why the Division cannot consider the part of the petition pertaining to the proposed permit area.

## **DIVISION REQUIREMENTS**

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Within 15 days of receipt of a petition, the Division will notify the general public of the receipt of the petition by a newspaper advertisement placed in the locale of the area covered by the petition and in the newspaper providing broadest circulation in the region of the petitioned area. The Division will make copies of the petition available to the public and will provide copies of the petition to other interested governmental agencies, intervenors, persons with an ownership interest of record in the property, and other persons known to the Division to have an interest in the property. Proper notice to persons with an ownership interest of record in the property will comply with the requirements of applicable state law.

The Division may provide for a hearing or a period of written comments on completeness of petitions. If a hearing or comment period on completeness is provided, the Division will inform interested governmental agencies, intervenors, persons with an ownership interest of record in the property, and other persons known to the Division to have an interest in the property of the opportunity to request to participate in such a hearing or provide written comments. Proper notice to persons with an ownership interest of record in the property will comply with the requirements of applicable Utah law. Notice of such a hearing will be made by a newspaper advertisement placed in the locale of the area covered by the petition and in the newspaper providing broadest circulation in the region of the petitioned area. The Division will, within 30 days of a hearing or close of period of written comments, notify the petitioner of such a hearing by certified mail. On the basis of Division review, as well as consideration of all comments, the Division will, within 30 days of the hearing or close of written comments, determine whether the petition is complete.

Within 15 days of the petition being determined complete, the Division will request submissions from the general public of relevant information by a newspaper advertisement placed once a week for two consecutive weeks in the locale of the area covered by the petition and in the newspaper providing broadest circulation in the region of the petitioned area.

Until three days before the Division holds a hearing, any person may intervene in the proceeding by filing allegations of fact describing how the designation determination directly affects the intervenor, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address, and telephone number.

## **HEARING REQUIREMENTS**

Within ten months after receipt of a complete petition, the Board shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The Board may subpoena witnesses as necessary. The hearing may be conducted with cross-examination of expert witnesses only. A record of the hearing shall be made and preserved according to R645 Rules. No person shall bear the burden of proof or persuasion. All relevant parts of the data base and inventory system and all public comments received during the public comment period shall be included in the record and considered by the Board in its decision on the petition.

The Division will give notice of the date, time, and location of the hearing to: local, state, and federal agencies which may have an interest in the decision on the petition; the petitioner and the intervenors; and, any person with an ownership or other interest known to the Division in the areas covered by the petition.

Notice of the hearing will be sent by certified mail and postmarked not less than 30 days before the scheduled date of the hearing.

The Division will notify the general public of the date, time, and location of the hearing by placing a newspaper advertisement once a week for two consecutive weeks in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisement will begin between four to five weeks before the scheduled date of the public hearing.

The Board may consolidate in a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

In the event that all petitioners and intervenors stipulate agreement prior to the hearing, the petition may be withdrawn from consideration.

## **DECISIONS**

Prior to designating any land areas unsuitable for coal mining and reclamation operations, the Division will prepare a detailed statement, using existing and available information on the potential coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy, and the supply of coal.

The cost-benefit analysis, is a part of the assessment of the impact of such designation on the economy required in the detailed statement. The analysis will not dictate the decision of the Board.

A final written decision will be issued by the Board, including a statement of reasons, within 60 days of completion of the public hearing, or, if no public hearing is held, then within 12 months after receipt of the complete petition. The Division will simultaneously send the decision by certified mail to the petitioner, every other party to the proceeding, and to the Office of Surface Mining.

The decision of the Board with respect to a petition, or the failure of the Division to act within the time limits, will be subject to judicial review by a court of competent jurisdiction.

## **DATA BASE AND INVENTORY SYSTEM REQUIREMENTS**

The Division will develop a data base and inventory system which will permit evaluation of whether reclamation is feasible in areas covered by petitions.

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The Division will include in the system information relevant to, but not limited to, information received from the United States Fish and Wildlife Service, the State Historic Preservation Officer, and the Division of Environmental Health - Bureau of Air Quality.

The Division will add to the data base and inventory system information: on potential coal resources of Utah, demand for those resources, the environment, the economy, and the supply of coal sufficient to enable the Division to prepare the required statements; and, that information which becomes available from petitions, publications, experiments, permit applications, coal mining and reclamation operations, and other sources.

The Division will make the information in the data base and inventory system available to the public for inspection free of charge and for copying at reasonable cost, except that specific information relating to location of properties proposed to be nominated to, or listed in, the National Register of Historic Places need not be disclosed if the Division determines that the disclosure of such information would create a risk of destruction or harm to such properties.

The Division will provide information to the public on the petition procedures necessary to have an area designated as unsuitable for all or certain types of coal mining and reclamation operations, or to have designations terminated and describe how the inventory and data base system can be used.

The Division will maintain a map, or other unified and cumulative record, of areas designated unsuitable for all or certain types of coal mining and reclamation operations.

The Division will make available to any person any information, within its control, regarding designations including mineral or elemental content which is potentially toxic in the environment but excepting proprietary information on the chemical and physical properties of the coal.

### **XII. PRIME FARMLANDS**

R645-302-310.

All permit applications, whether or not prime farmland is present, will include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The Division in consultation with the SCS will determine the nature and extent of the required reconnaissance inspection.

If the reconnaissance inspection establishes that no land within the proposed permit area is prime farmland historically used for cropland, the Permittee will submit a statement that no prime farmland is present. The statement will identify the basis upon which such a conclusion was reached.

If the reconnaissance inspection indicates that land within the proposed permit area may be prime farmland historically used for cropland, the Permittee will determine if a soil survey exists for those lands and whether soil mapping units in the permit area have been

designated as prime farmland. If no soil survey exists, the Permittee will have a soil survey made of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland. Soil surveys of the detail used by the SCS for operational conservation planning will be used to identify and locate prime farmland soils.

### **XIII. ALLUVIAL VALLEY FLOORS**

R645-302-320.

Before applying for a permit to conduct, or before conducting surface coal mining and reclamation operations within a valley holding a stream or in a location where the adjacent area includes any stream, the Permittee shall either affirmatively demonstrate, based on available data, the presence of an alluvial valley floor, or submit to the Division the results of a field investigation of the proposed permit and adjacent area. The field investigations shall include sufficiently detailed geologic, hydrologic, land use, soils, and vegetation studies on areas required to be investigated by the Division, after consultation with the Permittee, to enable the Division to make an evaluation regarding the existence of the probable alluvial valley floor in the proposed permit or adjacent area and to determine which areas, if any, require more detailed study in order to allow the Division to make a final determination regarding the existence of an alluvial valley floor.

### **XIV. VARIANCES**

R645-302-200.

Experimental practices provide a variance from environmental protection performance standards for experimental or research purposes, or to allow an alternative postmining land use, and may be undertaken if they are approved by the Division and the Office and if they are incorporated in a permit or permit change.

Under the State Program, surface coal mining and reclamation activities may be conducted under a variance for restoring affected areas to their approximate original contour, if:

1. The activities involve the mining of an entire coal seam running through the upper fraction of a mountain, ridge, or hill, by removing all of that overburden and creating a level plateau or gently rolling contour with no highwalls remaining;
2. An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed and approved for the affected land;
3. The alternative land use requirements and all applicable requirements of the State Program, other than the requirement to restore affected areas to their approximate original contour, are met;

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4. An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated overburden, are retained to prevent slides and erosion, except that the Division may allow an exemption to the retention of the coal barrier requirement if the following conditions are satisfied:

If a variance is granted, the requirements of the variance will be included as a specific condition of the permit; and, the permit will be specifically marked as containing a variance from approximate original contour.

A permit incorporating a variance will be reviewed by the Division at least every 30 months following the issuance of the permit to evaluate the progress and development of the coal mining and reclamation operations to establish that the Permittee is proceeding in accordance with the terms of the variance.

The terms and conditions of a permit incorporating a variance may be modified at any time by the Division, if it determines that more stringent measures are necessary to ensure that the operations involved are conducted in compliance with the requirements of the State Program.

Variances for Delay in Contemporaneous Reclamation applies to any person or persons conducting or intending to conduct combined surface and underground coal mining and reclamation activities where a variance is requested from the contemporaneous reclamation requirements.

**XV. REVIEW OF VIOLATIONS**

R645-300-132.

The Division will make a finding that any coal mining and reclamation operation owned or controlled by the Permittee is not currently in violation of the Act or in violation of any federal law, rule, or regulation, or any Utah law or rule, enacted pursuant to federal law, rule, or regulation pertaining to air or water environmental protection. If such a finding cannot be made, the Division will require the Permittee, before the issuance of the permit, to either:

1. Submit to the Division proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation; or
2. Establish for the Division that the Permittee has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the initial judicial review authority either denies a stay applied for in the appeal or affirms the violation, then the Permittee will promptly submit the proof required.



The Division may issue a permit conditionally pending the outcome of an appeal.

If the Division makes a finding that the Permittee, or the Operator specified in the application, controls or has controlled coal mining and reclamation operations with a demonstrated pattern of willful violations of the Act of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the Act, the application will not be granted. Before such a finding becomes final, the Permittee or Operator will be afforded an opportunity for an adjudicatory hearing on the determination.

## **XVI. PERMIT TERMS AND CONDITIONS**

R645-300-140.

At a minimum, each permit issued by the Division will be subject to the following conditions:

1. The Permittee will conduct coal mining and reclamation operations only on those lands that are specifically designated as the permit area on the maps submitted with the application and authorized for the term of the permit and that are subject to the performance bond.
2. The Permittee will conduct all coal mining and reclamation operations only as described in the approved application, except to the extent that the Division otherwise directs in the permit.
3. The Permittee will comply with the terms and conditions of the permit and all applicable performance standards and requirements of the State Program.
4. Without advance notice, delay, or a search warrant, upon presentation of appropriate credentials, the Permittee will allow the authorized representatives of the Division to have the right of entry and be accompanied by private persons for the purpose of conducting an inspection when the inspection is in response to an alleged violation reported to the Division by the private person.
5. The Permittee will take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to: any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance; immediate implementation of measures necessary to comply; and, warning, as soon as possible after learning of such

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noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

6. The Permittee will comply with the applicable regulations for use, modification, or abandonment of existing structures.
7. The Permittee will pay all reclamation fees required for coal produced under the permit, for sale, transfer or use.

Additional terms, conditions, obligations, and commitments may be placed on a permit due to other regulatory requirements, specific conditions unique to the site, or other terms and conditions resulting from the application or use of Special Areas of Mining as defined in the R645 Rules.

**XVII. PERFORMANCE BOND**

R645-300-134; R645-301-800; R645-301-356; 30 CFR Sec. 944.30.

**GENERAL CONDITIONS**

After a permit application has been approved, but before a permit is issued, the Permittee will file with the Division, on a form prescribed and furnished by the Division (the Reclamation Agreement), a bond or bonds for performance made payable to the Division and conditioned upon the faithful performance of all the requirements of the State Program, the permit and the reclamation plan.

The Permittee will not disturb any surface areas, succeeding increments, or extend any underground shafts, tunnels, or operations prior to acceptance by the Division of the required performance bond.

The bond or bonds will cover the entire permit area, or an identified increment of land within the permit area upon which the Permittee will initiate and conduct coal mining and reclamation operations during the initial term of the permit.

As coal mining and reclamation operations on succeeding increments are initiated and conducted within the permit area, the Permittee will file with the Division an additional bond or bonds to cover such increments.

The Permittee will identify the initial and successive areas or increments for bonding on the permit application map submitted for approval as provided in the application, and will specify the bond amount to be provided for each area or increment. Independent increments will be of sufficient size and configuration to provide for efficient reclamation operations should reclamation by the Division become necessary.

The Permittee will file, with the approval of the Division, a bond or bonds under one of the following schemes to cover the bond amounts for the permit area:

1. A performance bond or bonds for the entire permit area;
2. A cumulative bond schedule and the performance bond required for full reclamation of the initial area to be disturbed;  
or
3. An incremental-bond schedule and the performance bond required for the first increment in the schedule.

Performance bond liability will be for the duration of the coal mining and reclamation operations and for a period which is coincident with the Permittee's period of extended responsibility for successful revegetation or until achievement of the reclamation requirements of the State Program and permit, whichever is later.

With the approval of the Division, a bond may be posted and approved to guarantee specific phases of reclamation within the permit area provided the sum of phase bonds posted equals or exceeds the total amount required. The scope of work to be guaranteed and the liability assumed under each phase bond will be specified in detail.

Isolated and clearly defined portions of the permit area requiring extended liability may be separated from the original area and bonded separately with the approval of the Division. Such areas will be limited in extent and not constitute a scattered, intermittent, or checkerboard pattern of failure. Access to the separated areas for remedial work may be included in the area under extended liability if deemed necessary by the Division.

If the Division approves a long-term, intensive agricultural postmining land-use, the applicable five- or ten-year period of liability will commence at the date of initial planting for such long-term agricultural use.

Implementation of an alternative postmining land-use which is beyond the control of the Permittee need not be covered by the bond.

The bond liability of the Permittee will include only those actions which he or she is obligated to take under the permit, including completion of the reclamation plan, so that the land will be capable of supporting the postmining land use.

The Division will require bond coverage for long-term surface facilities and structures, and for areas disturbed by surface impacts incident to UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES, for which a permit is required. Specific reclamation techniques required for underground mines and long-term facilities will be considered in determining the amount of bond to complete the reclamation.

The period of liability for every bond covering long-term surface disturbances will commence with the issuance of a permit, except that to the extent that such disturbances will occur on a succeeding increment to be bonded, such liability will commence upon the posting of the bond for that increment before the initial surface disturbance of that increment. The liability

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period will extend until all reclamation, restoration, and abatement work under the permit has been completed and the bond is released or until the bond has been replaced or extended.

Long-term surface disturbances will include long-term coal-related surface facilities and structures, and surface impacts incident to underground coal mining activities which disturb an area for a period that exceeds five years. Long-term surface disturbances include, but are not limited to: surface features of shafts and slope facilities; coal refuse areas; powerlines; boreholes; ventilation shafts; preparation plants; machine shops, roads and loading and treatment facilities.

To achieve continuous bond coverage for long-term surface disturbances, the bond will be conditioned upon extension, replacement or payment in full, 30 days prior to the expiration of the bond term.

Continuous bond coverage will apply throughout the period of extended responsibility for successful revegetation and until the provisions for bond release have been met.

The performance bond will be payable to the Division except that operations on Federal lands will require the Permittee to submit a single performance bond payable to the Division and the United States to cover the Permittee's responsibilities under SMCRA and the Program. Such performance bond will be conditioned upon compliance with all requirements of the SMCRA, the Program, State rules and regulations, and any other requirements imposed by the Department. Such bond will provide that if the Utah Cooperative Agreement (State Program) is terminated, the portion of the bond covering the Federal lands will be payable only to the United States.

The performance bond will be conditioned upon faithful performance of all the requirements of the State Program and the approved permit, including completion of the reclamation plan.

The Division will require in the permit that adequate bond coverage be in effect at all times. Operating without a bond is a violation of a condition upon which the permit is issued.

### BOND AMOUNT

The amount of the bond required for each bonded area will be determined by the Division; depend upon the requirements of the approved permit and reclamation plan; reflect the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology and revegetation potential; and, be based on, but not limited to, the detailed estimated cost, with supporting calculations for the estimates, submitted by the Permittee.

The amount of the bond will be sufficient to assure the completion of the reclamation plan if the work has to be performed by the Division in the event of forfeiture, and in no case will the total bond initially posted for the entire area under one permit be less than \$10,000.

An additional inflation factor will be added to the subtotal for the permit term. This inflation factor will be based upon an acceptable Costs Index.

### **BOND ADJUSTMENT**

The amount of the bond or deposit required and the terms of the acceptance of the Permittee's bond will be adjusted by the Division from time to time as the area requiring bond coverage is increased or decreased or where the cost of future reclamation changes. The Division may specify periodic times or set a schedule for reevaluating and adjusting the bond amount to fulfill this requirement.

The Division will notify the Permittee, the surety, and any person with a property interest in collateral who has requested notification of any proposed adjustment to the bond amount; and, provide the Permittee an opportunity for an informal conference on the adjustment.

The Permittee may request reduction of the amount of the performance bond upon submission of evidence to the Division providing that the Permittee's method of operation or other circumstances reduces the estimated cost for the Division to reclaim the bonded area. Bond adjustments which involve undisturbed land or revision of the cost estimate of reclamation are not considered to be subject to procedures for bond release.

In the event that an approved permit is revised in accordance with the R645 rules, the Division will review the bond for adequacy and, if necessary, will require adjustment of the bond to conform to the permit as revised.

### **TYPES OF BONDS**

The Division may allow for a surety bond, a collateral bond, a self-bond, or a combination of any of these bonding methods.

### **SURETY BONDS**

A surety bond will be executed by the Permittee and a corporate surety licensed to do business in Utah.

Surety bonds will be noncancellable during their terms, except that surety bond coverage for lands not disturbed may be canceled with the prior consent of the Division. The Division will advise the surety, within 30 days after receipt of a notice to cancel bond, whether the bond may be canceled on an undisturbed area.

A surety company must be licensed in the State or other area in which it provides a bond, but need not be licensed in the State or other area in which the principal (Permittee) resides, or where the contract is to be performed.

Department of the Treasury approved surety companies are required to hold Certificates of Authority as acceptable reinsuring companies and are acceptable only as reinsuring

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companies on Federal bonds and bonds on Federal lands issued under the State Program. The Department of the Treasury publishes annually in the Federal Register, Circular 297, companies holding Certificates of Authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies. Certificates of Authority Expire on June 30, and are renewable July 1, annually.

Underwriting limitations are provided in Circular 297 for each surety company. However, the viability or risk associated with these surety companies is not provided in or a part of the information provided by the Department of the Treasury. An assessment of risk for each performance bond and each surety company should be made prior to acceptance of performance bonds from any surety company.

### COLLATERAL BONDS

Collateral bonds, except for letters of credit, cash accounts and real property will be subject to the following conditions:

1. The Division will keep custody of collateral deposited by the Permittee until authorized for release or replacement.
2. The Division will value collateral at its current market value, not at face value.
3. The Division will require that certificates of deposit be made payable to or assigned to the Division both in writing and upon the records of the bank issuing the certificates. If assigned, the Division will require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.
4. The Division will not accept an individual certificate of deposit in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

Letters of credit will be subject to the following conditions:

1. The letter may be issued only by a bank organized or authorized to do business in the United States.
2. Letters of credit will be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage will be forfeited and will be collected by the Division if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date.

3. The letter of credit will be payable to the Division upon demand, in part or in full, upon receipt from the Division of a notice of forfeiture.

Real property posted as a collateral bond will meet the following conditions:

1. The Permittee will grant the Division a first mortgage, first deed of trust, or perfected first lien security interest in real property with a right to sell or otherwise dispose of the property in the event of forfeiture under state law.
2. In order for the Division to evaluate the adequacy of the real property offered to satisfy collateral requirements, the Permittee will submit a schedule of the real property which will be mortgaged or pledged to secure the obligations under the indemnity agreement. The list will include:
  - a. A description of the property;
  - b. The fair market value as determined by an independent appraisal conducted by a certified appraiser approved by the Division; and
  - c. Proof of possession and title to the real property;
3. The property may include land which is part of the permit area; however, land pledged as collateral for a bond under this section will not be disturbed under any permit while it is serving as security under this section.

Cash accounts will be subject to the following conditions:

1. The Division may authorize the Permittee to supplement the bond through the establishment of a cash account in one or more federally insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the Division. The total bond including the cash account will not be less than the amount required under terms of performance bonds including any adjustments, less amounts released.
2. Any interest paid on a cash account will be retained in the account and applied to the bond value of the account unless the Division has approved the payment of interest to the Permittee.
3. Certificates of deposit may be substituted for a cash account with the approval of the Division.

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4. The Division will not accept an individual cash account in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

The estimated bond value of all collateral posted as assurance under this section will be subject to a margin which is the ratio of bond value to market values, as determined by the Division. The margin will reflect legal and liquidation fees, as well as value depreciation, marketability and fluctuations which might affect the net cash available to the Division to complete reclamation.

The bond value of collateral may be evaluated at any time, but it will be evaluated as part of the permit renewal and, if necessary, the performance bond amount increased or decreased. In no case will the bond value of collateral exceed the market value.

Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, will request the notification in writing to the Division at the time collateral is offered.

**SELF BONDING**

Self bonding should not be considered as an alternate form of bonding when the Permittee cannot meet the requirements for other bonding methods. Self bonding will only be allowed by the Division when it is evident that the stability and financial standing of the Permittee is equal to or surpasses the reliability of other bonding methods available.

The Division may accept a self bond from the Permittee for a permit if all of the following conditions are met by the Permittee or its parent corporation guarantor:

1. The Permittee designates a suitable agent, resident within the state of Utah, to receive service of process;
2. The Permittee has been in continuous operation as a business entity for a period of not less than five years. Continuous operation will mean that business was conducted over a period of five years immediately preceding the time of application;
3. The Division may allow a joint venture or syndicate with less than five years of continuous operation to qualify under this requirement if each member of the joint venture or syndicate has been in continuous operation for at least five years immediately preceding the time of application. When calculating the period of continuous operation, the Division may exclude past periods of interruption to the operation of the business entity that were beyond the Permittee's control and that do not affect the Permittee's likelihood of remaining in



business during the proposed coal mining and reclamation operations;

4. The Permittee submits financial information in sufficient detail to show that the Permittee meets one of the following criteria:
  - a. The Permittee has a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporation.
  - b. The Permittee has a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities to 1.2 times or greater.
  - c. The Permittee's fixed assets in the United States total at least \$20 million and the Permittee has a ratio of total liabilities to net worth of 2.5 times or less and a ratio of current assets to current liabilities of 1.2 times or greater.
5. The Permittee must submit financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public accountant in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion; unaudited financial statements for completed quarters in the current fiscal year; additional unaudited information as requested by the Division; and, annual reports for the five years immediately preceding the time of application.
6. The Division may accept a written guarantee for the Permittee's self bond from a parent corporation guarantor as if it were the Permittee. Such a written guarantee will be referred to as a "corporate guarantee." The terms of the corporate guarantee will provide for the following:
  - a. If the Permittee fails to complete the reclamation plan, the guarantor will do so or the guarantor will be liable under the indemnity agreement to provide funds to the Division sufficient to complete the reclamation plan, but not to exceed the bond amount;

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- b. The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the Permittee and to the Division at least 90 days in advance of the cancellation date, and the Division accepts the cancellation; and
  - c. The cancellation may be accepted by the Division if the Permittee obtains suitable replacement bond before the cancellation date or if the lands for which the self bond, or portion thereof, was accepted have not been disturbed.
- 7. The Division may accept a written guarantee for the Permittee's self bond from any corporate guarantor, whenever the Permittee and the guarantor meets the conditions for self bonding. Such a written guarantee will be referred to as a "nonparent corporate guarantee."
- 8. For the Division to accept the Permittee's self bond, the total amount of the outstanding and proposed self bonds of the Permittee for coal mining and reclamation operations will not exceed 25 percent of the Permittee's tangible net worth in the United States. For the Division to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self bonds and guaranteed self bonds for surface coal mining and reclamation operations will not exceed 25 percent of the guarantor's tangible net worth in the United States. For the Division to accept a nonparent corporate guarantee, the total amount of the nonparent corporate guarantor's present and proposed self bonds and guaranteed self bonds will not exceed 25 percent of the guarantor's tangible net worth in the United States.
- 9. If the Division accepts the Permittee's self bond, an indemnity agreement will be submitted subject to the following requirements:
  - a. The indemnity agreement will be executed by all persons and parties who are to be bound by it, including the parent corporation guarantor, and will bind each jointly and severally.
  - b. Corporations applying for a self bond, and parent and nonparent corporations guaranteeing the Permittee's self bond shall submit an indemnity

agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the Division along with an affidavit certifying that such an agreement is valid under all applicable federal and Utah laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self bond and execute the indemnity agreement.

- c. If the Permittee is a partnership, joint venture or syndicate, the agreement will bind each partner or party who has a beneficial interest, directly or indirectly, in the Permittee.
  - d. The Permittee, parent or nonparent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the Division an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.
  - e. The indemnity agreement when under forfeiture will operate as a judgment against those parties liable under the indemnity agreement.
10. The Division may require self-bonded Permittees, parent and nonparent corporate guarantors to submit an update of the information required for self bonding within 90 days after the close of each fiscal year following the issuance of the self bond or corporate guarantee.
11. If at any time during the period when a self bond is posted, the financial conditions of the Permittee, parent, or nonparent corporate guarantor change so that the criteria for self bonding are not satisfied, the Permittee will notify the Division immediately and will within 90 days post an alternate form of bond in the same amount as the self bond. Should the Permittee fail to post an adequate substitute bond, the Permittee will be required to cease mining and commence reclamation operations.

## **REPLACEMENT OF BONDS**

## DIVISION REQUIREMENTS

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The Division may allow the Permittee to replace existing bonds with other bonds that provide equivalent coverage. The Division will not release existing performance bonds until the Permittee has submitted, and the Division has approved, acceptable replacement performance bonds. Replacement of a performance bond pursuant to this section will not constitute a release of bond subject to those requirements for bond release applications.

The bond will provide a mechanism for a bank or surety company to give prompt notice to the Division and the Permittee of any action filed alleging the insolvency or bankruptcy of the surety company, the bank, or the Permittee, or alleging any violations which would result in suspension or revocation of the surety or bank charter or license to do business.

Upon the incapacity of a bank or surety company by reason of bankruptcy, insolvency, or suspension or revocation of a charter or license, the Permittee will be deemed to be without bond coverage and will promptly notify the Division. The Division, upon notification received from the institution or from the Permittee, will, in writing, notify the Permittee who is without bond coverage and specify a reasonable period, not to exceed 90 days, to replace bond coverage. If an adequate bond is not posted by the end of the period allowed, the Permittee will cease coal extraction and will immediately begin to conduct reclamation operations in accordance with the reclamation plan. Mining operations will not resume until the Division has determined that an acceptable bond has been posted.

### BOND RELEASE

The Permittee may file an application with the Division for the release of all or part of a performance bond. Applications may be filed only at times or during seasons authorized by the Division in order to properly evaluate the completed reclamation operations. The times or seasons appropriate for the evaluation of certain types of reclamation will be identified in the approved mining and reclamation plan.

Within 30 days after an application for bond release has been filed with the Division, the Permittee will submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the coal mining and reclamation operations. The advertisement will be considered part of any bond release application and will contain the Permittee's name, permit number and approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the Permittee's approved reclamation plan and the name and address of the Division to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. In addition, as part of any bond release application, the Permittee will submit copies of letters which he or she has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond.

Upon receipt of the bond release application, the Division will, within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. The evaluation will consider, among other factors, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of future occurrence of such pollution and the estimated cost of abating such pollution. The surface owner, agent or lessee will be given notice of such inspection and may participate with the Division in making the bond release inspection. The Division may arrange with the Permittee to allow access to the permit area, upon request of any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

Within 60 days from the filing of the bond release application, if no public hearing is held, or, within 30 days after a public hearing has been held, the Division will notify in writing the Permittee, the surety or other persons with an interest in bond collateral who have requested notification and the persons who either filed objections in writing or objectors who were a party to the hearing proceedings, if any, of its decision to release or not to release all or part of the performance bond.

The Division may release all or part of the bond for the entire permit area if the Division is satisfied that all the reclamation or a phase of the reclamation covered by the bond or portion thereof has been accomplished in accordance with the following schedules for reclamation of Phases I, II and III:

1. At the completion of Phase I, after the Permittee completes the backfilling and regrading (which may include the replacement of topsoil) and drainage control of a bonded area in accordance with the approved reclamation plan, 60 percent of the bond or collateral for the applicable area;
2. At the completion of Phase II, after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, an additional amount of bond. When determining the amount of bond to be released after successful revegetation has been established, the Division will retain that amount of bond for the revegetated area which would be sufficient to cover the cost of reestablishing revegetation if completed by a third party and for the period specified for Permittee responsibility for reestablishing revegetation. No part of the bond or deposit will be released so long as the land to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements or until soil productivity for prime farmlands has returned to the equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed. Where a silt dam

**DIVISION REQUIREMENTS**

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is to be retained as a permanent impoundment, the Phase II portion of the bond may be released under this paragraph so long as provisions for sound future maintenance by the Permittee or the landowner have been made with the Division.

3. At the completion of Phase III, after the Permittee has completed successfully all surface coal mining and reclamation operations, the release of the remaining portion of the bond, but not before the expiration of the period specified for Permittee responsibility. However, no bond will be fully released under provisions of this section until reclamation requirements of the Act and the permit are fully met.

If the Division disapproves the application for release of the bond or portion thereof, the Division will notify the Permittee, the surety, and any person with an interest in collateral in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release and allowing an opportunity for a public hearing.

When an application for total or partial bond release is filed with the Division, the Division will notify the municipality in which the coal mining and reclamation activities are located by certified mail at least 30 days prior to the release of all or a portion of the bond.

Any person with a valid legal interest which might be adversely affected by release of the bond, or the responsible officer or head of any federal, state, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved in the operation or which is authorized to develop and enforce environmental standards with respect to such operations, will have the right to file written objections to the proposed release from bond with the Division within 30 days after the last publication of the notice. If written objections are filed and a hearing is requested, the Division will inform all the interested parties of the time and place of the hearing and will hold a public hearing within 30 days after receipt of the request for the hearing. The date, time and location of the public hearing will be advertised by the Division in a newspaper of general circulation in the locality for two consecutive weeks. The public hearing will be held in the locality of the coal mining and reclamation operations from which bond release is sought, or at the location of the Division office, at the option of the objector.

For the purpose of bond release hearings, the Division will have the authority to administer oaths, subpoena witnesses or written or printed material, compel the attendance of witnesses or the production of materials and take evidence including, but not limited to, inspection of the land affected and other surface coal mining operations carried on by the Permittee in the general vicinity. A verbatim record of each public hearing will be made and a transcript will be made available on the motion of any party or by order of the Division.

Without prejudice to the right of an objector or the Permittee, the Division may hold an informal conference to resolve such written objections. The Division will make a record of the informal conference unless waived by all parties, which will be accessible to all parties.

The Division will also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding.

Prior to releasing the Permittee from any federal bonding obligation, the Division will obtain the concurrence of OSMRE. OSMRE concurrence will include coordination with other Federal agencies having authority over the lands involved.

### **BOND FORFEITURE**

The Division will take action to forfeit a bond if 30 days prior to bond expiration the Permittee has not filed the performance bond for a new term as required for continuous coverage, or, a performance bond providing coverage for the period of liability, including the period of extended responsibility for successful revegetation.

If the Permittee refuses or is unable to conduct reclamation of an unabated violation, if the terms of the permit are not met, or if the Permittee defaults on the conditions under which the bond was accepted, the Division will take the following action to forfeit all or part of a bond or bonds for any permit area or an increment of a permit area:

1. Send written notification by certified mail, return receipt requested, to the Permittee and the surety on the bond, if any, informing them of the determination to forfeit all or part of the bond including the reasons for the forfeiture and the amount to be forfeited. The amount will be based on the estimated total cost of achieving the reclamation plan requirements.
2. Advise the Permittee and surety, if applicable, of the conditions under which forfeiture may be avoided. Such conditions may include, but are not limited to:
  - a. Agreement by the Permittee or another party to perform reclamation operations in accordance with a compliance schedule which meets the conditions of the permit, the reclamation plan and the State Program and a demonstration that such party has the ability to satisfy the conditions; or
  - b. The Division may allow a surety to complete the reclamation plan, or the portion of the reclamation plan applicable to the bonded phase or increment, if the surety can demonstrate an ability to complete the reclamation in accordance with the approved reclamation plan. Except where the Division may approve partial release no surety liability will be released until successful

**DIVISION REQUIREMENTS**

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completion of all reclamation under the terms of the permit, including applicable liability periods.

In the event forfeiture of the bond is required, the Division will proceed to collect the forfeited amount as provided by applicable laws for the collection of defaulted bonds or other debts if actions to avoid forfeiture have not been taken, or if rights of appeal, if any, have not been exercised within a time established by the Division, or if such appeal, if taken, is unsuccessful; and, use funds collected from bond forfeiture to complete the reclamation plan, or portion thereof, on the permit area or increment, to which bond coverage applies.

Upon default, the Division may cause the forfeiture of any and all bonds deposited to complete reclamation for which the bonds were posted. Bond liability will extend to the entire permit area under conditions of forfeiture.

In the event the estimated amount forfeited is insufficient to pay for the full cost of reclamation, the Permittee will be liable for remaining costs. The Division may complete, or authorize completion of, reclamation of the bonded area and may recover from the Permittee all costs of reclamation in excess of the amount forfeited.

In the event the amount of performance bond forfeited was more than the amount necessary to complete reclamation, the unused funds will be returned by the Division to the party from whom they were collected.

Performance bonds involving any federal bonding obligations will be subject to forfeiture with the concurrence of OSMRE.

**OTHER BONDS**

Submission of a performance bond for reclamation liability under the State Program does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of SMCRA.

The Permittee's financial responsibility for repairing material damage resulting from subsidence may be satisfied by providing a performance bond.

**XVIII. LIABILITY INSURANCE**

R645-301-890.

The Division will require the Permittee to submit as part of its permit application, a certificate issued by an insurance company authorized to do business in Utah certifying that the Permittee has a public liability insurance policy in force for the coal mining and reclamation activities for which the permit is sought. The policy will provide for personal injury and property damage protection in an amount adequate to compensate any persons injured or property damaged as a result of the coal mining and reclamation operations, including the use of explosives, and who are entitled to compensation under the applicable



provisions of state law. Minimum insurance coverage for bodily injury and property damage will be \$300,000 for each occurrence and \$500,000 aggregate.

The policy will be maintained in full force during the life of the permit or any renewal thereof, including the liability period necessary to complete all reclamation operations.

The policy will include a rider requiring that the insurer notify the Division whenever substantive changes are made in the policy including any termination or failure to renew.

The Division may accept from the Permittee, in lieu of a certificate for a public liability insurance policy, satisfactory evidence from the Permittee that it satisfies applicable state self-insurance requirements approved as part of the State Program.

The Permittee's financial responsibility for repairing material damage resulting from subsidence may be satisfied by the liability insurance policy.

## **XIX. PERMIT APPROVAL**

R645-300-150.

If the application is approved, the permit will be issued upon submittal of a performance bond. If the application is disapproved, the Division will issue written notification of the decision to the Permittee, each person who files comments or objections to the permit application, and each party to an informal conference. Local governmental officials in the local political subdivision in which the land to be affected is located will be notified within 10 days after the issuance of a permit, including a description of the location of the land. The Office of Surface Mining will also be notified that the application has been approved.

## **XX. PERMIT CHANGES**

R645-303.220

At any time during the term of a permit, the Permittee may submit to the Division, an Application for Permit Change. The Division will review and respond to an initial Application for a Permit Change within 15 days of receipt of the application.

The Permittee will obtain approval of a permit change by making application for changes in the method of conduct of mining or reclamation operations or in the conditions authorized or required under the approved permit; provided, however, that any extensions to the approved permit area, except for Incidental Boundary Changes, must be processed and approved through application for a new permit.

The Application for Permit Change will identify the proposed change, or changes, and include the information required to the extent applicable to the proposed change or changes. The Application for Permit Change will be categorized as a Significant Permit Revision if it involves any of the changes or circumstances set forth below. All other Applications for

## **DIVISION REQUIREMENTS**

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Permit Change, including Incidental Boundary Changes, will be categorized as Permit Amendments.

An Application for Permit Change must be categorized and processed as a Significant Permit Revision for any of the following changes or circumstances:

1. An increase in the size of the surface or subsurface disturbed area in an amount of 15 percent, or greater, than the disturbed area under the approved permit;
2. Engaging in operations outside of the cumulative impact area as defined in the Cumulative Hydrologic Impact Assessment (CHIA);
3. Engaging in operations in hydrologic basins other than those authorized in the approved permit;
4. When required by a Division Order;
5. In order to continue operation after the cancellation or material reduction of the liability insurance policy, capability of self-insurance, performance bond, or other equivalent guarantee upon which the original permit was issued; or
6. As otherwise required under applicable law or regulation.

Applications for Significant Permit Revisions and Permit Amendments will be submitted to the Division at least 120 days and 60 days, respectively, before the change in operations is expected to be implemented.

Significant Permit Revisions will be reviewed and processed by the Division, including requirements for notice, public participation, and notice of decision.

Permit Amendments will not be subject to requirements for notice, public participation, or notice of decision.

The Division will approve or disapprove the Application for Significant Permit Revisions and Permit Amendments, within 120 days and 60 days, respectively, of receipt by the Division of the Administratively Complete Application for Permit Change. The Director may extend the designated time period if it is determined that due to weather conditions, or other considerations, it is physically impossible to perform the review of the Application for Permit Change within that time period.

**XXI. PERMIT RENEWAL**

Permit application approval will apply to those lands that are specifically designated as the permit area on the maps submitted with the application and for which the application is complete and accurate. Any valid permit issued will carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

**XXII. PERMIT TRANSFER**

R645-303-300.

No transfer, assignment, or sale of rights granted by a permit will be made without the prior written approval of the Division.

The applicant for approval of the transfer, assignment, or sale of permit rights will provide the Division with an application for approval of the proposed transfer, assignment, or sale including:

1. The name and address of the existing Permittee and permit number or other identifier;
2. A brief description of the proposed action requiring approval; and
3. The legal, financial, compliance, and related information required for the applicant for approval of the transfer, assignment, or sale of permit rights;

The applicant will be required to advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the Permittee, the permit number or other identifier, the geographic location of the permit, and the address to which written comments may be sent.

The applicant will obtain appropriate performance bond coverage in an amount sufficient to cover the proposed operations.

Any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any federal, state, or local government agency, may submit written comments on the application to the Division, within 30 days of the advertisement publication.

The Division may allow a Permittee to transfer, assign, or sell permit rights to a successor, if it finds in writing: that the successor is eligible to receive a permit; has submitted a performance bond or other guarantee, or obtained the bond coverage of the original Permittee; meets any other requirements specified by the Division.

The Division will notify the Permittee, the successor, commentators, and the Office of Surface Mining of its findings.

The successor will immediately provide notice to the Division of the consummation of the transfer, assignment, or sale of permit rights.

The successor in interest will assume the liability and reclamation responsibilities of the existing permit and will conduct the coal mining and reclamation operations in full compliance with the State Program and the terms and conditions of the existing permit, unless the applicant has obtained a new or revised permit.

### **XXIII. PERMIT ENFORCEMENT**

R645-400.

#### **AUTHORITY**

Within the State of Utah, Division representatives may enter upon and through any coal exploration or coal mining and reclamation operation without advance notice upon presentation of appropriate credentials. No search warrant will be required, except that the State may provide for its use with respect to entry into a building.

Division representatives may inspect any monitoring equipment or method of exploration or operation and have access to and may copy any records required under the approved State Program. Division representatives may exercise these rights at reasonable times, without advance notice, upon presentation of appropriate credentials. No search warrant will be required, except that the State may provide for its use with respect to entry into a building.

Nothing in the Federal Act or the State Program will be construed as eliminating any additional enforcement rights or procedures which are available under State law to the Division, but which are not specifically enumerated in Sections 40-10-20 and 40-10-22 of the Act.

#### **FREQUENCY OF INSPECTIONS**

The Division will conduct an average of at least one partial inspection per month of each active coal mining and reclamation operation under its jurisdiction, and will conduct a partial inspection of each inactive coal mining and reclamation operation under its jurisdiction as are necessary to ensure effective enforcement of the State Program. A partial inspection is an onsite or aerial review of a person's compliance with some of the permit conditions and requirements imposed under the State Program.

The Division will conduct an average of at least one complete inspection per calendar quarter of each active or inactive coal mining and reclamation operation under its jurisdiction. A complete inspection is an onsite review of a person's compliance with all

permit conditions and requirements imposed under the State Program, within the entire area disturbed or affected by the coal mining and reclamation operation.

The Division will conduct inspections of coal explorations as are necessary to ensure compliance with the State Program.

Aerial inspections will be conducted in a manner which reasonably ensures the identification and documentation of conditions at each coal mining and reclamation operation inspected. Any potential violation observed during an aerial inspection will be investigated onsite within three (3) days: provided, that any indication of a condition, practice or violation constituting cause for the issuance of a cessation order will be investigated on site immediately, and provided further, that an onsite investigation of a potential violation observed during an aerial inspection will not be considered to be an additional partial or complete inspection.

The inspections required will be carried out on an irregular basis, so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays; occur without prior notice to the Permittee or any agent or employee of such Permittee, except for necessary onsite meetings; and, include the prompt filing of inspection reports adequate to enforce the requirements of the approved State Program.

For the purposes of inspection, an inactive coal mining and reclamation operation is one for which: the Division has secured from the Permittee the written notice; or, reclamation Phase II has been completed and the liability of the Permittee has been reduced by the Division in accordance with the State Program.

#### **AVAILABILITY OF INFORMATION**

Copies of all records, reports, inspection materials, or information obtained by the Division will be made immediately available to the public in the area of mining until at least five years after expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond so that they are conveniently available to residents of that area, except as otherwise provided by federal law. For information not required to be made available the Division will ensure compliance by either making copies of all records, reports, inspection materials, and other subject information available for public inspection at a federal, Utah or local government office in the county where the mining is occurring or proposed to occur; or, at the Division's option and expense, providing copies of subject information promptly by mail at the request of any resident of the area where the mining is occurring or is proposed to occur. Provided, that the Division will maintain for public inspection, at a federal, Utah or local government office in the county where the mining is occurring or proposed to occur, a description of the information available for mailing and the procedure for obtaining such information.

In order to protect preparation for hearings and enforcement proceedings, the Director of the Office and the Division may enter into agreements regarding procedures for the special handling of investigative and enforcement reports and other such materials.

**REQUESTS FOR INSPECTION**

The State Program provides for public participation in the enforcement of the State Program, and the Board's Procedural Rules.

The Permittee may request an onsite compliance conference with an authorized representative of the Division to review the compliance status of any condition or practice proposed at any coal exploration or coal mining and reclamation operation. Any such conference will not constitute an inspection, or any applicable permit or exploration approval.

The Division may accept or refuse any request to conduct a compliance conference.

The authorized representative at any compliance conference will review such proposed conditions and practices in order to advise whether any such condition or practice may become a violation of any requirement of the Act, the approved State Program or any applicable permit or exploration approval.

Neither the holding of a compliance conference under this section nor any opinion given by the authorized representative at such a conference will affect: any rights or obligations of the Division or of the Permittee with respect to any inspection, notice of violation or cessation order, whether prior or subsequent to such compliance conference; or, the validity of any notice of violation or cessation order issued with respect to any condition or practice reviewed at the compliance conference.

A citizen may request a Division inspection by furnishing to the Division a signed, written statement (or an oral report followed by a signed, written statement) giving the Division reason to believe that a violation of the State Program or any applicable permit or exploration approval has occurred, and including a phone number and address where the citizen can be contacted.

The identity of any person supplying information to the Division relating to a possible violation or imminent danger or harm will remain confidential with the Division if requested by that person, unless that person elects to accompany the inspector on the inspection, or unless disclosure is required under Utah or federal law.

If a Division inspection is conducted as a result of information provided to the Division by a citizen, the citizen will be notified as far in advance as practicable when the inspection is to occur and will be allowed to accompany the authorized representative of the Division during the inspection. Such person has a right of entry to, upon, and through the coal exploration or coal mining and reclamation operation about which he or she provided information, but only if he or she is in the presence of and is under control, direction and supervision of the authorized representative while on the mine property. Such right of entry does not include a right to enter buildings without consent of the person in control of the building or without a search warrant. All citizens so visiting mine sites are required to comply with applicable MSHA safety standards.

Within 10 days of the Division inspection or, if there is no inspection within 15 days of receipt of the citizen's written statement, the Division will send the citizen the following:

1. If an inspection was made, a description of the enforcement action taken, which may consist of copies of the Division inspection report and all notices of violation and cessation orders issued as a result of the inspection or an explanation of why no enforcement action was taken;
2. If no Division inspection was conducted, an explanation of the reason why; and
3. An explanation of the citizen's right, if any, to informal review of the action or inaction of the Division.

The Division will give copies of all materials within the time limits specified in that Rule to the person alleged to be in violation, except that the name of the citizen will be removed unless disclosure of the citizen's identity is permitted.

#### **RIGHT OF ENTRY**

Each authorized representative of the Division conducting an inspection will have a right of entry to, upon, and through any coal exploration or coal mining and reclamation operation without advance notice or a search warrant, upon presentation of appropriate credentials. The Division representative may, at reasonable times and without delay, have access to and copy any records, and inspect any monitoring equipment or method of operation required under the State Program or any condition of an exploration approval or permit imposed under the State Program, and, will have a right to gather physical and photographic evidence to document conditions, practices or violations at the site.

No search warrant will be required with respect to any activity except that a search warrant may be required for entry into a building.

#### **REVIEW OF ADEQUACY AND COMPLETENESS OF INSPECTION**

Any person who is or may be adversely affected by coal mining and reclamation operations or coal exploration operations may notify the Director in writing of any alleged failure on the part of the Division to make adequate and complete or periodic inspections. The notification will contain information to demonstrate the belief that the person is or may be adversely affected including the basis for his or her belief that the Division has failed to conduct the required inspections. The Director will within 15 days of receipt of the notification, determine whether there is sufficient information to create a reasonable belief that such requirements are not being complied with, and if not, will immediately order an inspection to remedy the noncompliance. The Director will, also furnish the complainant with a written statement of the reasons for such determination and the actions, if any, taken to remedy the noncompliance.

## **DIVISION REQUIREMENTS**

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Any person who is or may be adversely affected by coal exploration or coal mining and reclamation operations may ask the Director to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for State inspection. The request for review will be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review.

The Director will conduct the review and inform the person, in writing, of the results of the review within 30 days of his or her receipt of the request. The person alleged to be in violation will also be given a copy of the results of the review, except that the name of the citizen will not be disclosed unless confidentiality has been waived or disclosure is required under Utah or federal law.

Informal review under this section will not affect any right to formal review or to a citizen's suit under the State Program.

### **CESSATION ORDERS**

The Division will immediately order a cessation of coal mining and reclamation operations or of the relevant portion thereof, if it finds, on the basis of any Division inspection, any violation of the State Program, or any condition of a permit or an exploration approval under the State Program, which:

1. Creates an imminent danger to the health or safety of the public; or
2. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

Coal mining and reclamation operations conducted by any person without a valid coal mining permit constitute a condition or practice which causes or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources, unless such operations are an integral, uninterrupted extension of previously permitted operations, and the person conducting such operations has filed a timely and complete application for a permit to conduct such operations.

If the cessation ordered will not completely abate the imminent danger or harm in the most expeditious manner physically possible, the Division will impose affirmative obligations on the person to whom it is issued to abate the violation. The order will specify the time by which abatement will be accomplished.

When a notice of violation has been issued and the Permittee fails to abate the violation within the abatement period fixed or subsequently extended by the Division then the Division will immediately order a cessation of coal exploration or coal mining and reclamation operations or of the portion relevant to the violation. A cessation order will



require the Permittee to take all steps the Division deems necessary to abate the violations covered by the order in the most expeditious manner physically possible.

A cessation order will be in writing, signed by the authorized representative of the Division who issued it, and will set forth with reasonable specificity: the nature of the violation; the remedial action or affirmative obligation required, if any, including interim steps, if appropriate; the time established for abatement, if appropriate, including the time for meeting any interim steps; a reasonable description of the portion of the coal exploration or coal mining and reclamation operations to which it applies; and, the order will remain in effect until the violation has been abated or until vacated, modified or terminated in writing by the Division.

Reclamation operations and other activities intended to protect public health and safety and the environment will continue during the period of any order unless otherwise provided in the order.

The Division may modify, terminate or vacate a cessation order for good cause, and may extend the time for abatement if the failure to abate within the time previously set was not caused by lack of diligence on the part of the Permittee.

The Division will terminate a cessation order by written notice to the Permittee, when it is determined that all conditions, practices or violations listed in the order have been abated. Termination will not affect the right of the Board to assess civil penalties for those violations.

#### **NOTICES OF VIOLATION**

The Division will issue a notice of violation if, on the basis of a Division inspection carried out during the enforcement of a State Program it finds a violation of the State Program or any condition of a permit or an exploration approval imposed under the State Program which does not create an imminent danger or harm for which a cessation order must be issued.

When on the basis of any Division inspection, the Division determines that there exists a violation of the State Program or any condition of a permit or an exploration approval required by the Act or the cessation order must be issued, the Division will issue a notice of violation to the Permittee or his agent fixing a reasonable time not to exceed 90 days for the abatement of the violation and providing opportunity for a conference before the Division.

A notice of violation will be in writing, signed by the authorized representative of the Division, and will set forth reasonable specificity: the nature of the violation; the remedial action required, which may include interim steps; a reasonable time for abatement, which may include time for accomplishment of interim steps; and, a reasonable description of the portion of the coal exploration or coal mining and reclamation operations to which it applies.

**DIVISION REQUIREMENTS**

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The Division may extend the time set for abatement or for accomplishment of an interim step, if the failure to meet the time previously set was not caused by lack of diligence on the part of the Permittee. The total time for abatement under a notice of violation, including all extensions, will not exceed 90 days from the date of issuance except upon a showing by the Permittee that it is not feasible to abate the violation within 90 calendar days. An extended abatement date pursuant to this section will not be granted when the Permittee's failure to abate within 90 days has been caused by lack of diligence or intentional delay by the Permittee in completing the remedial action required.

If the Permittee fails to meet any time set for abatement or for accomplishment of an interim step, the Division will issue a cessation order.

The Division will terminate a notice of violation by written notice to the Permittee, when the Division determines that all violations listed in the notice of violation have been abated. Termination will not affect the right of the Board to assess civil penalties for those violations which have been abated, nor will termination affect the right of the Board to assess civil penalties for those violations.

Circumstances which may qualify a coal mining and reclamation operation for an abatement period of more than 90 days are:

1. Where the Permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the Permittee;
2. Where there is a valid judicial order precluding abatement within 90 days as to which the Permittee has diligently pursued all rights of appeal and as to which he or she has no other effective legal remedy;
3. Where the Permittee cannot abate within 90 days due to a labor strike;
4. Where climatic conditions preclude abatement within 90 days or where, due to climatic conditions, abatement within 90 days clearly would cause more environmental harm than it would prevent; or
5. Where abatement within 90 days requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act of 1977.

Whenever an abatement time in excess of 90 days is permitted, interim abatement measures will be imposed to the extent necessary to minimize harm to the public or the environment.

If any of the above conditions exist, the Permittee may request the authorized representative of the Division to grant an abatement period exceeding 90 days. The authorized representative will not grant such an abatement period without the concurrence of the Director or his or her designee and the abatement period granted will not exceed the shortest possible time necessary to abate the violation. The Permittee will have the burden of establishing by clear and convincing proof that he or she is entitled to any extension under those provisions.

In determining whether or not to grant an abatement period exceeding 90 days the authorized representative may consider any relevant written or oral information from the Permittee or any other source. The authorized representative will promptly and fully document in the file his or her reasons for granting or denying the request. The Director or designee of the Director will review this document before concurring in or disapproving the extended abatement date and will promptly and fully document the reasons for his or her concurrence or disapproval in the file.

Any determination made will contain a right of appeal to the Board.

No extension granted may exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extension, the Permittee may request a further extension.

#### **ENFORCEMENT ACTIONS AT ABANDONED SITES**

The Division may refrain from using a notice of violation or cessation order for a violation at an abandoned site, if abatement of the violation is required under any previously issued notice on order.

#### **SUSPENSION OR REVOCATION OF PERMITS**

The Board will issue an order to a Permittee requiring him or her to show cause why his or her permit and right to mine under the State Program should not be suspended or revoked, if the Board determines that a pattern of violations of any requirements of the State Program, or any permit condition required by the Act exists or has existed, and that each violation was caused by the Permittee willfully or through an unwarranted failure to comply with those requirements or conditions. A finding of unwarranted failure to comply will be based upon a demonstration of greater than ordinary negligence on the part of the Permittee. Violations by any person conducting coal mining and reclamation operations on behalf of the Permittee will be attributed to the Permittee, unless the Permittee establishes that they were acts of deliberate sabotage.

**PATTERN OF VIOLATION**

The Director may determine that a pattern of violations exists or has existed, based upon two or more Division inspections of the permit area within a 12-month period, after considering the circumstances, including:

1. The number of violations, cited on more than one occasion, of the same or related requirements of the State Program or the permit; and
2. The number of violations, cited on more than one occasion, of different requirements of the State Program or the permit; and
3. The extent to which the violations were isolated departures from lawful conduct.

If after the review, the Director determines that a pattern of violation exists or has existed and that each violation was caused by the Permittee willfully or through unwarranted failure to comply, he or she will recommend that the Board issue an order to show cause.

The Director will promptly review the history of violations of any Permittee who has been cited for violations of the same or related requirements of the State Program, or the permit during three or more state inspections of the permit area within a 12-month period. If, after such review, the Director determines that a pattern of violations exists or has existed, he or she will recommend that the Board issue an order to show cause.

**NUMBER OF VIOLATIONS**

In determining the number of violations within a 12-month period, the Director will consider only violations issued as a result of a state inspection carried out during enforcement of the State Program.

The Director may not consider violations issued as a result of inspections other than those mentioned in R645-400-333.100 in determining whether to exercise his or her discretion, except as evidence of the willful or unwarranted nature of the Permittee's failure to comply.

Whenever a Permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the Director will review the Permittee's history of violations to determine whether a pattern of violations caused by the Permittee's willful or unwarranted failure to comply exists pursuant to this section, and will make a recommendation to the Board concerning whether or not an order to show cause should be issued.

**HEARING PROCEDURES**

If the Permittee files an answer to the show cause order and requests a hearing, a formal public hearing on the record will be conducted pursuant to the R641 Rules before the Board or at the Board's option by an administrative hearing officer. The hearing officer will be a person who meets minimum requirements for a hearing officer under Utah law. At such hearing the Division will have the burden of establishing a prima facie case for suspension or revocation of the permit based upon clear and convincing evidence. The ultimate burden of persuasion that the permit should not be suspended or revoked will rest with the Permittee. The Board or Officer will give 30 days written notice of the date, time and place of the hearing to the Director, the Permittee and any intervenor. Upon receipt of the notice the Director will publish it, if practicable, in a newspaper of general circulation in the area of the coal mining and reclamation operations, and will post it at the Division office closest to those operations. Upon written request by the Permittee, such hearing may at the Board's option be held at or near the mine site within the county in which the Permittee's operations are located.

Within 60 days after the hearing, the Board will prepare a written determination, or the Officer will prepare a written determination to the Board, as to whether or not a pattern of violation exists. If the determination is prepared by the hearing officer, it will be reviewed by the Board which will make the final decision thereon. If the Board finds a pattern of violations and revokes or suspends the permit and the Permittee's right to mine under the State Program, the Permittee will immediately cease coal mining operations on the permit area and will:

If the permit and the right to mine under the State Program are revoked, complete reclamation within the time specified in the order; or if the permit and the right to mine under the State Program are suspended, complete all affirmative obligations to abate all conditions, practices, or violations as specified in the order.

#### **SERVICE OF NOTICES OF VIOLATION, CESSATION ORDERS AND SHOW CAUSE ORDERS**

A notice of violation or cessation order will be served on the Permittee or his designated agent promptly after issuance, as follows:

By tendering a copy at the coal exploration or coal mining and reclamation operation to the designated agent or to the individual who, based upon reasonable inquiry by the authorized representative, appears to be in charge of the coal exploration or coal mining and reclamation operation referred to in the notice or order. If no such individual can be located at the site, a copy may be tendered to any individual at the site who appears to be an employee or agent of the Permittee. Service will be complete upon tender of the notice or order and will not be deemed incomplete because of refusal to accept.

As an alternative, service may be made by sending a copy of the notice or order by certified mail or by hand to the Permittee or his designated agent. Service will be complete upon tender of the notice or order by mail and will not be deemed incomplete because of refusal to accept.

## **DIVISION REQUIREMENTS**

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Designation by any person of an agent for service of notices and orders will be made in writing to the Division.

### **INFORMAL PUBLIC HEARING**

A notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, will expire within 30 days after it is served unless an informal public hearing has been held within that time. The hearing will be held at or reasonably close to the mine site so that it may be viewed during the hearing or at any other location acceptable to the Division and the Permittee. The Division office nearest to the mine site will be deemed to be reasonably close to the mine site unless a closer location is requested and agreed to by the Division. Expiration of a notice or order will not affect the Board's right to assess civil penalties for the violations mentioned in the notice or order.

A notice of violation or cessation order will not expire, if the condition, practice or violation in question has been abated or if the informal public hearing has been waived, or if, with the consent of the Permittee, the informal public hearing is held later than 30 days after the notice or order was served.

### **BOARD REVIEW OF CITATIONS**

A Permittee issued a notice of violation or cessation order or a person having an interest which is or may be adversely affected by the issuance, modification, vacation or termination of a notice or order, may request review of the Division's action by filing an application for review and request for hearing pursuant to UCA 40-10-22(3) and the Board's Rules within 30 days after receiving notice of the action.

Upon written petition by the Permittee or an interested party, the Board, at its discretion, or a hearing examiner appointed by the Board, pursuant to UCA 40-6-10(6), may be requested to hold a hearing at the site of the operation or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of public hearing.

The Board will issue an order concerning the cessation order within 30 days after its next regularly scheduled hearing of receipt of the petition for review of the Division's cessation order.

The filing of a petition for review and request for a hearing under R645-400-360 will not operate as a stay of any notice or order, or of any modification, termination or vacation of either.

### **INABILITY TO COMPLY**

No cessation order or notice of violation may be vacated because of inability to comply.

Inability to comply may not be considered in determining whether a pattern of violations exists.

Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of civil penalty under R645-401 and of the duration of the suspension of a permit under R645-400-330.

### **COMPLIANCE CONFERENCE**

A Permittee may request an onsite compliance conference with an authorized representative to review the compliance status of any condition or practice proposed at any coal exploration or coal mining and reclamation operation.

The Division may accept or refuse any request to conduct a compliance conference. Where the Division accepts such a request, reasonable notice of the scheduled date and time of the compliance conference will be given to the Permittee.

The authorized representative at any compliance conference will review such proposed conditions and practices as the Permittee may request in order to determine whether any such condition or practice may become a violation of any requirement of the Act or of any applicable permit or exploration proposal.

Neither the holding of any compliance conference nor any opinion given by the authorized representative at such a conference will affect:

1. Any rights or obligations of the Division or of the Permittee with respect to any inspection, notice of violation or cessation order, whether prior or subsequent to such conference; or
2. The validity of any notice of violation or cessation order issued with respect to any condition or practice reviewed at the compliance conference.

### **INJUNCTIVE RELIEF**

The Division may request the Utah Attorney General's office to institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other order, in the district court for the district in which the coal exploration or coal mining and reclamation operation is located or in which the Permittee has his principal office, whenever that Permittee, in violation of the State Program or any condition of an exploration approval or permit:

1. Violates or fails or refuses to comply with any order or decision of the Division under the State Program;
2. Interferes with, hinders or delays the Division in carrying out the provisions of the State Program;
3. Refuses to admit the Division to a mine;

## **DIVISION REQUIREMENTS**

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4. Refuses to permit inspection of a mine by the Division;
5. Refuses to furnish any required information or report;
6. Refuses to permit access to or copying of any required records;  
or
7. Refuses to permit inspection of monitoring equipment.

No citizen suits may be brought pursuant to UCA 40-10-21 if the Board, Division or State Attorney General has commenced and is diligently prosecuting a civil action, however, in any such action in a state court any interested person may intervene as permitted by and in accordance with Rule 24 of the Utah Rules of Civil Procedure.



**PERMIT APPLICATION INFORMATION**

**PERMITTEE REQUIREMENTS**



**INTRODUCTION**

Information requirements for coal mining and reclamation permit applications are presented here to serve as an outline for submitting information to the Division. The requirements listed herein are primarily listed for new permit applications, permit renewals and significant permit revisions. However, those sections, as they apply, should be used for amendments and other changes to the mining and reclamation plan.

The requirements and provisions found in these Permittee Requirements, should not be considered as complete, nor comprehensive in terms of the information that is required for a permit application package. The requirements presented in this form represent only minimum information required for permit applications. Substantial additional information may be required by the Division or other agencies to achieve an acceptable mining and reclamation plan.

Submittal of a complete and accurate permit application package for review by the Division under these guidelines shall not constitute compliance. The burden of compliance to provide complete and accurate information, designs, and drawings and that coal mining and reclamation activities are conducted in accordance with all Federal, State and Local regulations shall remain on the Permittee.

**1. LEGAL, FINANCIAL AND COMPLIANCE RELATED INFORMATION**

Information in this section of the permit application should provide specific information to identify the Permittee. Descriptions and information found in this section should summarize detailed information which is provided elsewhere in the application.

**1.1. CERTIFICATION OF APPLICATION**

R645-301-123.

Applications for: permits; permit changes; permit renewals; or transfers, sales or assignments of permit rights must contain the notarized signature of a responsible official of the Permittee, that the information contained in the application is true and correct to the best of the official's information and belief.

Figure 1.1-1 provides an example of the Certification required. This Certification of Application should accompany all submittals to the Division for any change to an existing mining and reclamation plan, including amendments.

**1.2. APPLICATION TYPE**

Indicate whether this application is for a new permit, permit renewal, permit revision, or other change to an existing mining and reclamation plan.

**PERMITTEE REQUIREMENTS**

I, \_\_\_\_\_, being first duly sworn under oath, deposes and says that he/she is in fact, an Authorized Representative of

PERMIT NAME and NUMBER \_\_\_\_\_;

and that he/she is duly authorized to execute and deliver the information contained in this application; and that the materials provided in this application is true and correct to the best of my information and belief.

(Signed) \_\_\_\_\_  
Name - Position

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_, 19 \_\_\_\_.

Attest:

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

Figure 1.1-1 Certificate of Application

If an application is for a change in the existing permit which is only considered to be an amendment to the plan, only those pertinent sections of the regulations need be addressed which will be affected by the amendment.

To determine whether or not such a change to an existing mining and reclamation plan is a revision or an amendment, refer to the Division Requirements, Section XX. CHANGES.

### 1.3. IDENTIFICATION OF INTERESTS

R645-301-100.

The Permittee shall state whether the Permittee is a corporation, partnership, single proprietorship, association, or other business entity.

## PERMITTEE REQUIREMENTS

Page 3.

Names, addresses, and telephone numbers of the Permittee, the operator (if different from the Permittee), and the Permittee's resident agent who will accept service of process;

For Permittees other than single proprietorships, where applicable:

Name and address of each officer, partner, principal, principal shareholder, and director or other person performing a function similar to a director; and

All names under which the Permittee, partner, or principal shareholder operates or previously operated a coal mining and reclamation operation in the United States within the 5 years preceding the date of application;

ORGANIZATION	NAME	DESCRIPTION
PERMITTEE	ABC COAL COMPANY 123 FARLAP DRIVE TENDON, UT 84999 (801) 555-5555  Formerly: ABC CO-OP MINING COMPANY	OFFICERS: President: H.D. Low V. President: L.D. Low
OPERATOR	XYZ MINING COMPANY	
RESIDENT AGENT		
PARENT COMPANY	ABC MINING, INC. WEST 1 PILLAR DRIVE FLATSPOT, WV 32999 (322) 555-5555	
NON PARENT GUARANTOR		
SUBSIDIARY COMPANY		

A statement of any pending coal mining and reclamation operation permit applications in the United States, and of all current and previous coal mining and reclamation operation permits in the United States held during the five years preceding the date of the application by any person identified in R645-301-112.320. Such statement will provide permit or application numbers or other identifiers and the identity of the regulatory authority for each operation listed;

The name and address of each legal or equitable owner of record of the surface and mineral property to be mined, each holder of record of any leasehold interest in the property to be mined, and any purchaser of record under a real estate contract for the property to be mined;

The name and address of each owner of record of all property (surface and subsurface) contiguous to any part of the proposed permit area;

**1.4. OPERATION TYPE****1.5. IDENTIFICATION OF OPERATION**

R645-301-112.

**1.6. PROPOSED PERMIT AREA DESCRIPTION****1.7. OTHER CONTIGUOUS PERMIT AREAS****1.8. RECLAMATION PLAN SUMMARY****1.9. ANTICIPATED PRODUCTION****1.10. FACILITIES AND STRUCTURES USED IN COMMON**

R645-301-117.

The plans of a facility or structure that is to be shared by two or more separately permitted coal mining and reclamation operations may be included in one permit application and referenced in the other applications.

Each Permittee will bond the facility or structure unless the Permittees sharing it agree to another arrangement for assuming their respective responsibilities. If such agreement is reached, then the application will include a copy of the agreement between or among the parties setting forth the respective bonding responsibilities of each party for the facility or structure. The agreement will demonstrate to the satisfaction of the Division that all responsibilities under the R645 Rules for the facility or structure will be met.

**1.11. PERMIT TERM**

R645-301.116.

The permit application will state the anticipated or actual starting and termination date of each phase of the coal mining and reclamation operation and the anticipated number of acres of land to be affected during each phase of mining over the life of the mine.

If the Permittee requires an initial permit term in excess of five years in order to obtain necessary financing for equipment and the opening of the operation, the application will be complete and accurate covering the specified longer term, and, show that the proposed longer term is reasonably needed to allow the Permittee to obtain financing for equipment and for the opening of the operation with the need confirmed, in writing, by the Permittee's proposed source of financing.

**1.12. DIRECTOR, OFFICER AND SHAREHOLDER INFORMATION**

**1.12.1. PERMITTEE'S LEGAL STRUCTURE**

R645-301-112.100.

**1.12.2. PERMITTEE'S OFFICERS, PARTNERS, PRINCIPAL SHAREHOLDERS, AND DIRECTORS**

R645-301-112.310.

**1.12.3. PERMITTEE'S OTHER NAMES**

**1.13. PERMITTEE'S MINING PERMITS**

**1.14. IDENTIFICATION OF PERSON PAYING ABANDONED MINED LAND RECLAMATION FEES**

**1.15. OTHER PERMITS AND APPROVALS**

**1.16. PERMIT AREA**

**1.17. SURFACE AND MINERAL OWNERSHIP**

**1.17.1. OWNERS OF PROPERTY TO BE MINED**

**1.17.2. LEASEHOLDERS OF PROPERTY TO BE MINED**

**1.17.3. PURCHASERS OF PROPERTY TO BE MINED**

**1.17.4. PROPERTY OWNERS OF CONTIGUOUS LANDS**

**1.17.5. PERMITTEE'S INTERESTS IN CONTIGUOUS LANDS**

**1.18. RIGHT-OF-ENTRY INFORMATION**

**1.19. CURRENT, PREVIOUSLY OPERATED, AND PENDING COAL MINING AND RECLAMATION OPERATIONS**

**1.20. OPERATION IDENTIFICATION**

R645-301-112.

Names, addresses, and telephone numbers of the Permittee, the Operator (if different from the Permittee), and the Permittee's resident agent who will accept service of process;

## **PERMITTEE REQUIREMENTS**

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### **1.20.1. PERMITTEE IDENTIFICATION**

R645-301-112.100.

### **1.20.2. OPERATOR IDENTIFICATION**

### **1.20.3. RESIDENT AGENT IDENTIFICATION**

### **1.21. VIOLATION INFORMATION**

### **1.22. STATUS OF UNSUITABILITY CLAIMS**

### **1.23. BONDING AND INSURANCE**

### **1.24. PERMIT TERM INFORMATION**

### **1.25. PROOF OF PUBLICATION**

### **1.26. FILING FEE**

## **2. OTHER LAWS PERTAINING TO COAL MINING**

### **2.1. ENDANGERED SPECIES ACT**

### **2.2. FISH AND WILDLIFE COORDINATION ACT**

### **2.3. MIGRATORY BIRD TREATY ACT**

### **2.4. NATIONAL HISTORIC PRESERVATION ACT**

### **2.5. BALD EAGLE PROTECTION ACT**

### **2.6. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT**

### **2.7. ARCHAEOLOGICAL RESOURCES PROTECTION ACT**

### **2.8. CLEAN AIR ACT**

### **2.9. CLEAN WATER ACT**

### **2.10. WILD AND SCENIC RIVERS ACT**

## **3. RESOURCE INFORMATION**

### **3.1. PRE-MINING LAND USE INFORMATION**



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- 3.2. CULTURAL AND HISTORIC RESOURCE INFORMATION
  - 3.3. PRIME FARMLAND DETERMINATION
  - 3.4. ALLUVIAL VALLEY FLOOR DETERMINATION
  - 3.5. SOIL SURVEY INFORMATION
  - 3.6. FISH AND WILDLIFE INFORMATION
  - 3.7. VEGETATION AND REFERENCE AREA INFORMATION
  - 3.8. AIR QUALITY INFORMATION
  - 3.9. HYDROLOGIC INFORMATION
  - 3.10. GEOLOGIC INFORMATION
  - 3.11. PREVIOUS MINING ACTIVITIES
  - 3.12. POST-MINING LAND USE INFORMATION
  - 4. OPERATION AND RECLAMATION PLAN
    - 4.1. GENERAL
    - 4.2. INTRODUCTION
    - 4.3. DISTURBED AREA BOUNDARIES
    - 4.4. SEQUENCE AND TIMING OF OPERATIONS
    - 4.5. REPORTING AND EMERGENCY PROCEDURES
    - 4.6. CERTIFICATION AND INSPECTION
    - 4.7. CESSATION OF MINING OPERATIONS
    - 4.8. OPERATION PLAN
    - 4.9. MINING METHODS AND COAL RECOVERY
    - 4.10. SURFACE FACILITIES

**4.11. EXISTING STRUCTURES**

R645-100.420-.432;

Existing Structure Exemption. Each structure used in connection with or to facilitate coal exploration or coal mining and reclamation operations will comply with the performance standards and design requirements of R645-301 and R645-302, except that:

An existing structure which meets the performance standards but does not meet the design requirements of R645-301 and R645-302 may be exempted from meeting those design requirements by the Division. The Division may grant this exemption only as part of the permit application process after obtaining the information required by R645-301-526.110 through R645-301-526.115.4 and after making the findings required by R645-300-130.

If the performance standard of the MC Rules (Interim Program Rules) is at least as stringent as the comparable performance standard of the R645 Rules, an existing structure which meets the performance standards of the MC Rules may be exempted by the Division from meeting the design requirements of the R645 Rules. The Division may grant this exemption only as part of the permit application process after obtaining the information required by R645-301-526.110 through R645-301-526.115.4 and after making the findings required by R645-300-130.

An existing structure which meets a performance standard of the MC Rules which is less stringent than the comparable performance standard in the R645 Rules will be modified or reconstructed to meet the design standard of the R645 Rules pursuant to a compliance plan approved by the Division only as part of the permit application as required in R645-301-526.110 through R645-301-526.115.4 and according to the findings required by R645-300-130.

An existing structure which does not meet the performance standards of the MC Rules and which the Permittee proposes to use, in connection with or to facilitate the coal exploration or coal mining and reclamation operation, will be modified or reconstructed to meet the performance design standards of R645-301 and R645-302 prior to issuance of the permit.

The exemptions provided for existing structures will not apply to the requirements for existing and new coal mine waste disposal facilities, and, the requirements to restore the approximate original contour of the land.

**4.12. SEDIMENT CONTROL****4.13. DIVERSIONS****4.14. TOPSOIL REMOVAL AND STORAGE****4.15. CONTEMPORANEOUS RECLAMATION****4.16. RECLAMATION PLAN**

- 4.17. RECLAMATION TIMETABLE**
- 4.18. POST MINING LAND USE FACILITIES**
- 4.19. DEMOLITION AND REMOVAL**
- 4.20. MINE OPENINGS**
- 4.21. BACKFILLING AND GRADING**
- 4.22. TOPSOIL REDISTRIBUTION**
- 4.23. REVEGETATION**
- 4.24. SEDIMENT CONTROL**
- 4.25. RECLAMATION COST ESTIMATE**
- 4.26. ANNUAL REPORTS**
- 4.27. IMPOUNDMENT INSPECTIONS AND REPORTS**
- 4.28. VEGETATION MONITORING AND REPORTS**
- 4.29. SURFACE WATER MONITORING AND REPORTS**
- 4.30. GROUND WATER MONITORING AND REPORTS**
- 4.31. SUBSIDENCE MONITORING AND REPORTS**
- 4.32. AIR QUALITY MONITORING AND REPORTS**
- 4.33. PHASED BOND RELEASE REQUESTS AND REPORTS**

**PRIOR TO BOND RELEASE REQUEST:**

In accordance with Section R645-301-880, the Permittee must submit appropriate reclamation evaluations **prior to application for bond release**. Additionally, weather conditions must allow for site inspection and evaluation of the work accomplished on the site.

In order to comply with the requirements for bond release, the Permittee shall be required to:

1. Address all outstanding stipulations for the permit as required.

**PERMITTEE REQUIREMENTS**

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2. Submit as-built plans, including designs, reports and drawings of the reclamation work accomplished. Any modifications, amendments, or changes to the reclamation plan as a result of the reclamation work must be approved by the Division and incorporated into the Mining and Reclamation Plan prior to request for bond release.
3. Submit a detailed cost estimate for the remaining reclamation work to be accomplished in the plan. The cost estimate shall include but not be limited to cost for remaining reclamation treatments; revegetation; vegetative, water, and other monitoring requirements; surveys or studies to determine reclamation success; maintenance costs; and, engineering and contingency costs.
4. Submit a copy of the proposed newspaper advertisement for requesting bond release. (see part B below)

**REQUEST FOR BOND RELEASE:****A. GENERAL REQUIREMENTS - Bond release information submitted by the Permittee must contain or reference the following information:**

1. Notice Letters shall at a minimum contain the same information as submitted in the Newspaper Advertisement (see part B below). Copies of all Notice Letters shall be submitted to the Division. Notice Letters shall be sent to all parties who have a valid interest in release of the bond notifying them of intention to seek release, and shall include but not be limited to:
  - a. Surface Owners
  - b. Subsurface Owners
  - c. Adjoining Property Owners
  - d. State Historical Society
  - e. State Department of Water Resources
  - f. State Department of Health
  - g. State Department of Wildlife Resources
  - h. Federal Agencies (BLM, Forest Service, Soil Conservation Service, etc. as may be involved with **FEDERAL** mines)
  - i. County Commissioners
  - j. Mayors
  - k. Local Planning Agencies

- 
1. Municipality Authorities
  - m. Others \_\_\_\_\_
2. A legal description of the release area.
  3. Maps of a scale of 1"=500' or larger illustrating the boundaries of lands for which bond release is being requested. The maps shall include the entire disturbed area boundaries and delineate areas of prior bond release and include the date and the acreage for the PHASE(S) of reclamation which bond has currently been released.
  4. References to the appropriate portions of the approved mining and reclamation plan and revisions for postmining topography, drainage control, vegetation, intended land use, etc. citing the specific reclamation treatments, areas, and work which was accomplished in consideration for bond release.
  5. A summary of the current bond amount, total disturbed area acreages, and the acreages, locations, dates and amounts of bond released for PHASE I, PHASE II, and PHASE III reclamation.
- B. NEWSPAPER ADVERTISEMENT** - Newspaper Advertisements shall be approved by the Division PRIOR to publication. A copy of a newspaper advertisement which is published at least once a week for four consecutive weeks in a newspaper of the locality of the mining operation shall be submitted to the Division within 30 days from the date of bond release application. The advertisement shall contain the following items:
1. The permit number, name of the Permittee, and the permit approval date.
  2. Accurate legal description of the land under consideration for release.
  3. Number of acres to be considered for release.
  4. Current amount and type of bond.
  5. The amount of bond being sought for release.

## PERMITTEE REQUIREMENTS

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6. A description of the type of reclamation work performed and the dates when the work was performed and completed.
7. A statement that written comments, objections and requests for public hearing or informal conference may be submitted to the Division of Oil, Gas and Mining.
8. The address of the Division of Oil, Gas and Mining, where requests, comments and objections may be submitted.
9. The closing date for submission of such comments, etc. (At least 30 days AFTER the last publication date.)

C. INSPECTION BY DIVISION - Upon receipt of the bond release application and acceptance of the information presented in the application, the Division shall within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. In conjunction with the inspection, the following shall be accomplished:

1. The surface owner, agent or lessee shall be given notice of the inspection by the Division and may participate with the Division in making the bond release inspection. The Division may also arrange with the Permittee to permit other persons with an interest in bond release access to the site for the purpose of gathering information relevant to bond release proceedings.
2. Notification to the Office of Surface Mining shall be made two-weeks prior to the scheduled bond release inspection in accordance with OSMRE Directive REG-26 for concurrence with bond release on FEDERAL LANDS.
3. A field report regarding the inspection will be prepared by the Division. The report shall include any concerns raised by other persons present at the time of the inspection. The field report will be used in conjunction with the

information presented by the Permittee in evaluation for bond release.

- D. **PUBLIC HEARINGS AND WRITTEN OBJECTIONS** - Written objections and requests for public hearings or informal conferences may be made by any person with a valid legal interest which might be adversely affected by release of the bond, or by any federal, state or local governmental agency which has jurisdiction by law, special expertise, or enforcement regarding any impact involved in the operation.
1. The Division shall notify the Permittee, surety and persons who either filed objections in writing or who were party to the hearing proceeding, if any, of its decision to release or not release all or part of the performance bond. If no public hearing is held, the notification shall occur within 60 days from the filing of the bond release application, or, if a public hearing is held, within 30 days after the hearing has been held.
  2. The Division may hold an informal conference as provided in UCA 40-10-13(a) of the Act to resolve written objections. The Division shall make a record of the informal conference unless waived by all parties, which shall be made accessible to all parties. The Division shall also furnish all parties of the informal conference with a written finding of the Division based on the informal conference and the reasons for said finding.

**PHASE I BOND RELEASE:**

- A. Bond release for PHASE I may be considered only after the Division is satisfied that all the reclamation requirements for PHASE I have been met. The requirements for PHASE I reclamation are:
1. Completion of backfilling and regrading (which may include the replacement of topsoil); and,
  2. Completion of drainage control in accordance with the requirements of the approved reclamation plan.

**PERMITTEE REQUIREMENTS**

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- B. A request for PHASE I bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:
1. A map illustrating the "as-built" topography if different than the most recently approved plan.
  2. Pre and Postmining Contour Topographic Maps (no smaller than 1"=500') showing:
    - a. Permit Area
    - b. Areas Previously Released
    - c. Areas Proposed for Release
    - d. Postmining Topography
    - e. Postmining Hydrologic Features, including drainage, ponds, and monitoring sites
    - f. Cross-sections, including but not limited to, Approximate Original Contour (AOC), drainage systems, ponds, roads, etc.
    - g. Date of Backfilling and Grading Activities
    - h. Dates of Topsoil Replacement
    - i. Topsoil Replacement Depths
  3. Results of overburden chemical analysis with discussion on how overburden will not adversely affect plant growth or water quality.
  4. Evaluation of topsoil or substitute soil including analyses and replacement depths.
  5. Evaluation of subsoil including analyses and replacement depths.
  6. Any field designs, modifications or changes to the mining and reclamation plan which occurred in conjunction with the reclamation activities.
  7. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended.

**PHASE II BOND RELEASE:**



A. Bond release for PHASE II may be considered only after the Division is satisfied that all the reclamation requirements for PHASE II have been met. The requirements for PHASE II reclamation are:

1. Completion of PHASE I reclamation;
2. Revegetation has been established in accordance with the requirements of the approved reclamation plan; and,
3. No part of the land considered for bond release is contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by UCA 40-10-17(j) of the Act and by Subchapter K [R645-301-200(Part 823)] of the regulations, or, where a permanent impoundment is to remain as a siltation structure under provisions made with and approved by the Division; and,
4. In the event that the area under consideration includes prime farmlands, that soil productivity has returned to the equivalent levels of yield as non-mined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to UCA 40-10-11(4) of the Act and Part 823 [R645-301-200(Part 823)] of the regulations.

B. A request for PHASE II bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended, and when specific revegetation treatments were applied in accordance with the approved plan, and when, if any, additional revegetation treatments or supplements were applied.
2. Detailed vegetation information including sampling data on productivity and cover, species

**PERMITTEE REQUIREMENTS**

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composition, and sampling methodology in accordance with the approved reclamation plan and as required by state regulation and policy.

3. Any field designs, modifications or changes to the mining and reclamation plan which occurred in conjunction with the reclamation activities.

**PHASE III BOND RELEASE:**

- A. Bond release for PHASE III may be considered only after the Division is satisfied that all the reclamation requirements for PHASE III have been met. The requirements for PHASE III reclamation are:

1. Completion of PHASE I reclamation;
2. Completion of PHASE II reclamation; and,
3. The period specified for Permittee responsibility in Section UMC/SMC 817.116 of the regulations [R645-301-356] has been met.

- B. A request for PHASE III bond release shall require that the general information for bond release be provided, and, include but not be limited to the following:

1. A brief history of mining and reclamation activities indicating when mining operations began and ended, when earthwork and topsoil distribution began and ended, and when specific revegetation treatments were applied in accordance with the approved plan, and when, if any, additional revegetation treatments or supplements were applied.
2. Water quality data and analysis indicating successful erosion protection and ground and surface water quality.
3. Detailed vegetation information including sampling data on productivity and cover, species composition, and sampling methodology in accordance with the approved reclamation plan and as required by state regulation and policy.

**BOND RELEASE, DETERMINATION OF AMOUNT:**

The Division shall review, revise and approve the recalculated bond amount as necessary in order to determine the amount of bond to be retained and the amount of bond to be released. If it is determined that the current bond amount is inadequate and the remaining costs exceed what is currently held by the Division, the Division may require an increase to the bonding sum rather than a partial reduction of the dollar value of the bond. It may be possible to release partial liability on lands reclaimed without actually reducing the dollar sum.

**PHASE I** bond release shall in no case exceed 60% of the bond for the applicable area.

**PHASE II** bond release shall require that the Division retain that amount of bond for the revegetated area which would be sufficient to cover the cost reestablishing revegetation if completed by a third party and for the period specified for Permittee responsibility in UCA 40-10-17(t) of the Act for reestablishing revegetation.

**PHASE III** or final bond release shall not be made until such time as the period specified for Permittee responsibility in R645-301-356 has been met, or, **PHASE II** reclamation requirements have been met, whichever is greater.

**5. PERMITS, REVIEWS AND APPROVALS BY OTHER FEDERAL, STATE AND LOCAL AGENCIES**

**5.1. LAND OWNER OR LAND MANAGER COMMENTS**

**5.2. U.S. FISH AND WILDLIFE SERVICE REGIONAL OR FIELD OFFICE**

**5.3. U.S. BUREAU OF LAND MANAGEMENT**

**5.4. U.S. FOREST SERVICE**

**5.5. NATIONAL PARKS SERVICE**

**5.6. UTAH DIVISION OF WILDLIFE RESOURCES**

**5.7. UTAH DIVISION OF WATER RESOURCES**

**5.8. UTAH DIVISION OF WATER RIGHTS**

**5.9. UTAH DIVISION OF ENVIRONMENTAL HEALTH**

**5.10. UTAH DIVISION OF STATE HISTORY**

**5.11. OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT**

**5.12. MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)**

R645-301-112.700;

The Permittee must identify and list MSHA numbers for all mine-associated structures that require MSHA approval.

**5.12.1. MINE PERMIT IDENTIFICATION**

**5.12.2. IMPOUNDMENTS**

**5.12.3. REFUSE FACILITIES**

**5.13. OTHER FEDERAL, STATE AND LOCAL PERMITS AND APPROVALS**

**6. TECHNICAL REPORTS AND DETAILED DESIGN INFORMATION**

**6.1. CULTURAL RESOURCE INFORMATION**

**6.2. PLANT COMMUNITIES BASELINE STUDIES**

**6.3. FISH AND WILDLIFE RESOURCES BASELINE STUDIES**

**6.4. LAND CAPABILITY AND PRODUCTIVITY**

**6.5. PRIME FARMLAND RECONNAISSANCE**

**6.6. GEOLOGIC LOGS**

**6.7. CHEMICAL ANALYSIS OF NONCOAL STRATA**

**6.8. CHEMICAL ANALYSIS OF COAL**

**6.9. ROOF AND FLOOR MATERIAL ANALYSIS**

**6.10. GEOLOGIC SAMPLING AND ANALYSIS WAVIER**

**6.11. SUBSIDENCE INFORMATION**

**6.12. GROUND WATER ANALYSIS**

**6.13. SURFACE WATER ANALYSIS**

**6.14. SUPPLEMENTAL HYDROLOGIC INFORMATION AND MODELING**

**6.15. PROBABLE HYDROLOGIC CONSEQUENCES (PHC) INFORMATION****6.16. ALTERNATE WATER RESOURCE INFORMATION****6.17. GROUND WATER MONITORING WAVIER****6.18. ALLUVIAL VALLEY FLOOR INFORMATION****7. CONFIDENTIAL INFORMATION****7.1. COAL ANALYSIS****7.2. TRADE SECRETS, PRIVILEGED COMMERCIAL OR FINANCIAL INFORMATION RELATING TO COMPETITIVE RIGHTS****7.3. NATURE AND LOCATION OF ARCHAEOLOGIC RESOURCES****8. PERMIT CHANGES****8.1. GENERAL REQUIREMENTS**

At any time during the term of a permit, the permittee may submit to the Division, an Application for Permit Change. The Division will review and respond to an initial Application for a Permit Change within 15 days of receipt of the application.

Alternately, the Division may, by order, require reasonable permit change to ensure compliance with the State Program. Any order of the Division requiring permit change will be based upon written findings and will be subject to the provisions for administrative and judicial review. Copies of the order will be sent to the permittee.

The operator will obtain approval of a permit change by making application for changes in the method of conduct of mining or reclamation operations or in the conditions authorized or required under the approved permit; provided, however, that any extensions to the approved permit area, except for Incidental Boundary Changes, must be processed and approved through application for a new permit and may not be approved as a Permit Amendment or a Significant Permit Revision.

Applications for Significant Permit Revisions and Permit Amendments will be submitted to the Division at least 120 days and 60 days, respectively, before the change in operations is expected to be implemented.

**8.2. APPLICATION FOR PERMIT CHANGE**

The Application for Permit Change will identify the proposed change, or changes, and include the information required under, R645-301, and R645-302 to the extent applicable

to the proposed change or changes. The Application for Permit Change will be categorized as a Significant Permit Revision or as a Permit Amendment.

### **8.2.1. SIGNIFICANT PERMIT REVISIONS**

Significant Permit Revisions as provided in R645-303-224 will be reviewed and processed by the Division in accordance with the requirements of R645-300-100 and R645-300-200, and the information requirements of R645-301 and R645-302, including requirements for notice, public participation, and notice of decision.

An Application for Permit Change must be categorized and processed as a Significant Permit Revision for any of the following changes or circumstances:

1. An increase in the size of the surface or subsurface disturbed area in an amount of 15 percent, or greater, than the disturbed area under the approved permit;
2. Engaging in operations outside of the cumulative impact area as defined in the Cumulative Hydrologic Impact Assessment (CHIA);
3. Engaging in operations in hydrologic basins other than those authorized in the approved permit;
3. When required by a division order;
4. In order to continue operation after the cancellation or material reduction of the liability insurance policy, capability of self-insurance, performance bond, or other equivalent guarantee upon which the original permit was issued; or
5. As otherwise required under applicable law or regulation.

### **8.2.2. PERMIT AMENDMENTS**

### **8.3. DIVISION ORDERS**

**100. EXHIBITS**

**101. AFFIDAVIT OF QUALIFICATION - RESIDENT AGENT**

**102. LANDOWNER AUTHORIZATIONS**

**102.1. RIGHT OF ENTRY**

**102.2. RIGHT TO CONDUCT MINING OPERATIONS**

**102.3. AUTHORIZATION FOR ALTERNATE POSTMINING LAND USE**

**102.4. REQUESTS FOR VARIANCES FROM AOC REQUIREMENTS**

**103. SURFACE AND MINERAL OWNERSHIP**

**104. DOCUMENTATION FOR VALID EXISTING RIGHTS AND LEASE INFORMATION**

**105. AGREEMENT FOR FACILITIES AND STRUCTURES USED IN COMMON**

If a facility or structure that is to be shared by two or more separately permitted coal mining and reclamation operations is included in the permit application, the Permittee will provide here, a copy of the agreement between or among the parties setting forth the respective bonding responsibilities of each party for the facility or structure. The agreement must demonstrate to the satisfaction of the Division that all responsibilities under the R645 Rules for the facility or structure will be met.

**106. RECLAMATION AGREEMENT**

**107. PUBLIC NOTICE**

**108. AUTHORIZATION TO CONDUCT MINING OPERATIONS WITHIN 100 FEET OF A PUBLIC ROAD**

**109. AUTHORIZATION TO CONDUCT MINE BLASTING OPERATIONS WITHIN 300 FEET OF AN OCCUPIED DWELLING**

**110. AIR POLLUTION CONTROL PLAN**

**111. MSHA APPROVAL OF SURFACE BLASTING OPERATIONS**

**112. BLASTER'S CERTIFICATIONS**

**113. NPDES DISCHARGE PERMITS**

## **PERMITTEE REQUIREMENTS**

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- 114. MSHA STRUCTURES AND IDENTIFICATION NUMBERS**
- 115. OTHER FEDERAL, STATE AND LOCAL PERMITS AND APPROVALS**



**200. MAPS****GENERAL****CERTIFICATION REQUIREMENTS**

R645-301-512

Certain cross sections and maps required to be included in a permit application will be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer or land surveyor, with assistance from experts in related fields such as hydrology, geology and landscape architecture, and will be updated as required by the Division.

**MAPPING ACCURACY AND FEATURES**

Accurate and clear base maps are essential to the development of a complete and adequate mining and reclamation plan.

Whenever possible, aerial photographs and photogrammetric mapping of the site should be utilized. Several different scales or series of base maps should be incorporated into the plan depending on the information and specific detail required. Table 200-1, Aerial Photography and Mapping Chart, provides photography and mapping information for a range of different map scales. Note that the examples provided in this table are for a limited number of scales and for specific focal length cameras. The Operator should determine the accuracy and the suitability of the method and equipment used for aerial photographs prior to

Maps should conform to National Map Accuracy Standards. Conformance to these standards is as follows.

**For Contour Maps:**

90% of the elevations determined from the solid line contours shall have an accuracy of one-half contour interval or better with respect to true elevation and the remaining 10% shall not be in error by more than one contour interval. In areas where vegetation obscures the ground and the contours are shown as dashed lines, they shall be plotted as accurately as possible from the stereoscopic model.

**For Spot Elevations:**

90% of all spot elevations placed on maps shall have an accuracy of at least one-fourth of the contour interval, and the remaining 10% shall not be in error by more than one-half the contour interval.

**For Planimetric Features:**

## PERMITTEE REQUIREMENTS

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90% of all planimetric features which are well defined on the photographs shall be plotted to within one-fortieth of an inch of their true position at map scale and none of the features shall be misplaced by more than one-twentieth of an inch.

### For Cross Sections:

90% of the profile and cross section elevations shall be within cross section accuracy as shown on Table 200-1 where the ground is visible. In areas where vegetation obscures the ground, sections shall be dashed and plotted as accurately as possible from the stereoscopic model.

<b>AERIAL PHOTOGRAPHY AND MAPPING CHART</b>								
<b>MAPS</b>					<b>PHOTOS</b>			
MAP SCALE	MAP CONTOUR INTERVAL	MAP CONTOUR ACCURACY	MAP SCALE ACCURACY	CROSS SECTION ACCURACY	PHOTO NEGATIVE SCALE	CAMERA ALTITUDE	FORWARD GAIN 60% OVERLAP	USABLE WIDTH 30% OVERLAP
<b>SCALE INFORMATION USING A 6" FOCAL LENGTH CAMERA</b>								
1"=30'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=200'	1200 FT	720 FT	1260 FT
1"=40'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=260'	1560 FT	936 FT	1638 FT
1"=50'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=330'	1980 FT	1188 FT	2079 FT
1"=100'	2 FT	0.7 FT	2.0 FT	0.40 FT	1"=400'	2400 FT	1440 FT	2520 FT
1"=100'	2 FT	1.0 FT	2.5 FT	0.50 FT	1"=660'	3960 FT	2376 FT	4158 FT
1"=200'	4 FT	1.4 FT	5.0 FT	1.00 FT	1"=800'	4800 FT	2880 FT	5040 FT
1"=200'	4 FT	1.7 FT	5.0 FT	1.00 FT	1"=1000'	6000 FT	3600 FT	6300 FT
1"=200'	5 FT	2.5 FT	5.0 FT	1.25 FT	1"=1320'	7920 FT	4752 FT	8316 FT
1"=400'	10 FT	3.5 FT	10.0 FT	2.00 FT	1"=2000'	12000 FT	7200 FT	12600 FT
1"=400'	10 FT	5.0 FT	10.0 FT	2.50 FT	1"=2640'	15840 FT	9504 FT	16632 FT
<b>SCALE INFORMATION USING A 3.5" FOCAL LENGTH CAMERA</b>								
1"=50'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=330'	1155 FT	1188 FT	2079 FT
1"=100'	2 FT	1.0 FT	2.5 FT	0.30 FT	1"=660'	2310 FT	2376 FT	4158 FT
1"=100'	2 FT	1.0 FT	5.0 FT	0.50 FT	1"=800'	2800 FT	2880 FT	5040 FT
1"=200'	4 FT	2.0 FT	10.0 FT	1.00 FT	1"=1600'	5600 FT	5760 FT	10080 FT
1"=400'	5 FT	2.5 FT	10.0 FT	1.25 FT	1"=2140'	7490 FT	7704 FT	13482 FT
1"=800'	10 FT	5.0 FT	20.0 FT	2.50 FT	1"=4280'	14980 FT	15408 FT	26964 FT
1"=800'	20 FT	7.0 FT	20.0 FT	3.50 FT	1"=5280'	18480 FT	19008 FT	33264 FT

Table 200-1.

NOTE - Photo negative scale determines horizontal and vertical accuracy. Map scales and contour intervals can be varied to suit specific requirements. Topographic features may be added or omitted to accommodate specific requirements. Shaded scales represent recommended contour accuracy for mining and reclamation maps.

Land classification under local laws.

**205. PREMINING SURFACE FEATURES AND SLOPES MAPS**

The location of all buildings in and within 1,000 feet of the proposed permit area, with identification of the current land use of the buildings.

The location of surface and subsurface man-made features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields.

Each public road located in or within 100 feet of the proposed permit area.

The location and dimensions of existing areas of spoil, waste, coal development waste, non-coal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities.

The locations, and depth if available, of gas and oil wells within the proposed permit area.

Slope measurements in accordance with 783.25k.

**206. VEGETATION RESOURCE MAPS**

The location and boundaries of any proposed reference areas for determining the success of revegetation.

Delineation of vegetative types and plant communities.

**207. SOIL RESOURCE MAPS**

Delineation of soils on the permit are to be affected by surface operations or facilities.

**208. CULTURAL RESOURCE MAPS**

Delineation of the locations of artifacts, dwellings, structures, or other significant items of cultural or historic consideration within the permit area.

**209. WILDLIFE, THREATENED AND ENDANGERED SPECIES MAPS**

Phases and timing of revegetation sufficient to demonstrate contemporary reclamation.

Delineation of threatened or endangered species of plant or animals, habitats of unusually high value for fish or wildlife, and, habitat components of the area adjacent to the permit are which will be complemented by the final plant species and distribution

AERIAL PHOTOGRAPHY AND MAPPING CHART								
MAPS					PHOTOS			
MAP SCALE	MAP CONTOUR INTERVAL	MAP CONTOUR ACCURACY	MAP SCALE ACCURACY	CROSS SECTION ACCURACY	PHOTO NEGATIVE SCALE	CAMERA ALTITUDE	FORWARD GAIN 60% OVERLAP	USABLE WIDTH 30% OVERLAP
SCALE INFORMATION USING A 6" FOCAL LENGTH CAMERA								
1"=30' 1"=40'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=200'	1200 FT	720 FT	1260 FT
1"=40' 1"=50'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=260'	1560 FT	936 FT	1638 FT
1"=50' 1"=100'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=330'	1980 FT	1188 FT	2079 FT
1"=100' 1"=200'	2 FT	0.7 FT	2.0 FT	0.40 FT	1"=400'	2400 FT	1440 FT	2520 FT
1"=100' 1"=200'	2 FT	1.0 FT	2.5 FT	0.50 FT	1"=660'	3960 FT	2376 FT	4158 FT
1"=200' 1"=400'	4 FT	1.4 FT	5.0 FT	1.00 FT	1"=800'	4800 FT	2880 FT	5040 FT
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1"=200' 1"=400'	5 FT	2.5 FT	5.0 FT	1.25 FT	1"=1320'	7920 FT	4752 FT	8316 FT
1"=400' 1"=1000'	10 FT	3.5 FT	10.0 FT	2.00 FT	1"=2000'	12000 FT	7200 FT	12600 FT
1"=400' 1"=1000'	10 FT	5.0 FT	10.0 FT	2.50 FT	1"=2640	15840 FT	9504 FT	16632 FT
SCALE INFORMATION USING A 3.5" FOCAL LENGTH CAMERA								
1"=50' 1"=100'	1 FT	0.5 FT	1.25 FT	0.30 FT	1"=330'	1155 FT	1188 FT	2079 FT
1"=100' 1"=200'	2 FT	1.0 FT	2.5 FT	0.30 FT	1"=660'	2310 FT	2376 FT	4158 FT
1"=100' 1"=200'	2 FT	1.0 FT	5.0 FT	0.50 FT	1"=800'	2800 FT	2880 FT	5040 FT
1"=200' 1"=400'	4 FT	2.0 FT	10.0 FT	1.00 FT	1"=1600'	5600 FT	5760 FT	10080 FT
1"=400' 1"=1000'	5 FT	2.5 FT	10.0 FT	1.25 FT	1"=2140'	7490 FT	7704 FT	13482 FT
1"=800' 1"=2000'	10 FT	5.0 FT	20.0 FT	2.50 FT	1"=4280'	14980 FT	15408 FT	26964 FT
1"=800' 1"=2000'	20 FT	7.0 FT	20.0 FT	3.50 FT	1"=5280'	18480 FT	19008 FT	33264 FT

Table 200-1.

NOTE - Photo negative scale determines horizontal and vertical accuracy. Map scales and contour intervals can be varied to suit specific requirements. Topographic features may be added or omitted to accommodate specific requirements. Shaded scales represent recommended contour accuracy for mining and reclamation maps.

**PUBLISHED MAPS**

Several sources of published maps may be available to the Operator for presentation in the mining and reclamation plan. These agencies include the U.S. Geological Survey, U.S. Forest Service, U.S. Soil Conservation Service, Utah Geologic and Minerals Survey, Utah Department of Natural Resources, Utah Department of Transportation, and county plat maps.

U.S. Geological Survey 7-1/2-minute (1"=2000') topographic map(s) or, if unavailable, 15-minute (1"=4000') map(s) can be marked to show the location and size of the permit area and other regional features encompassed by the permit application package.

**CAD DRAWINGS**

CAD (Computer Aided Design) Drawings can be very beneficial in the design and the development of mining operations. Drawings and maps which must be frequently updated, such as underground mine workings maps, best lend themselves to CAD systems. Other drawings which will not require updating, such as the site location map, may be more prone to conventional drawing practices.

Designs and drawings made on CAD systems offer a wide range of versatility. Scale can be varied easily for plotting and overlaying several different drawings. Layers can be added, hidden or deleted from the drawing without having to regenerate base information provided on the drawing.

Drafting time and the initial generation of a drawing using a CAD system will most likely take longer than conventional drafting methods. The advantage of the CAD system is that once the initial drawing has been generated, changes to the drawing can be readily made and the drawing updated with little effort. The quality of the drawing is preserved because a clean and up to date drawing can be plotted at any time. Deterioration and the clarity of a conventional drawing is often lost through erasures, and changes made on the original drawing. Using the original for reproduction can increase the risk of damage or loss of unique and sometime irreplaceable information.

Maps provided in the permit application package should be at a scale and contour interval sufficient to represent the terrain, facilities, boundaries, or other features in which the map is intended.

**201. GENERAL LOCATION MAPS**

U.S. Geological Survey 7-1/2-minute topographic map(s) or, if unavailable, 15-minute map(s) can be marked to show the general location and size of the area encompassed by the permit application package.

A map should be provided in the plan showing the outline of the permit area, the road or access to the site from the closest improved public road, designation of the highway or

road number, and, the distance from the turnoff to the mine to the nearest town or community.

Other useful information on the site location map can include the outline of the county in which the mining operation is located, distinguishing landmarks such as rivers, mountain peaks, park boundaries, and adjacent towns or other features in locating the site of the mining operation.

Map scale for the general location map may vary depending on the size and location of the proposed permit area. Generally, the location map can be provided at a scale of 1"=2000' or even smaller.

Because the general location map does not detail the location or the permit boundary for design purposes, this drawing does not require certification.

## **202. PERMIT AREA BOUNDARY AND FUTURE PERMIT AREAS MAPS**

The boundaries of all areas proposed to be affected over the estimated total life of mining activities.

The size, sequence, and timing of the mining and reclamation of sub-areas (or successive permit areas) for which it is anticipated that additional permits will be sought.

## **203. LAND STATUS MAPS**

All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area.

The boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin mining activities.

The boundaries of any public park and locations of any cultural or historical resources listed or in the National Register of Historic Places.

Each public or private cemetery or Indian burial ground located in or within 100 feet of the proposed permit area.

Any land which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act.

## **204. PREMINING LAND USE MAPS**

Delineation of existing land uses of the area to be affected by surface operations and facilities.

## **PERMITTEE REQUIREMENTS**

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Land classification under local laws.

### **205. PREMINING SURFACE FEATURES AND SLOPES MAPS**

The location of all buildings in and within 1,000 feet of the proposed permit area, with identification of the current land use of the buildings.

The location of surface and subsurface man-made features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields.

Each public road located in or within 100 feet of the proposed permit area.

The location and dimensions of existing areas of spoil, waste, coal development waste, non-coal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities.

The locations, and depth if available, of gas and oil wells within the proposed permit area.

Slope measurements in accordance with 783.25k.

### **206. VEGETATION RESOURCE MAPS**

The location and boundaries of any proposed reference areas for determining the success of revegetation.

Delineation of vegetative types and plant communities.

### **207. SOIL RESOURCE MAPS**

Delineation of soils on the permit area to be affected by surface operations or facilities.

### **208. CULTURAL RESOURCE MAPS**

Delineation of the locations of artifacts, dwellings, structures, or other significant items of cultural or historic consideration within the permit area.

### **209. WILDLIFE, THREATENED AND ENDANGERED SPECIES MAPS**

Phases and timing of revegetation sufficient to demonstrate contemporary reclamation.

Delineation of threatened or endangered species of plant or animals, habitats of unusually high value for fish or wildlife, and, habitat components of the area adjacent to the permit area which will be complemented by the final plant species and distribution plan on the affected area.



**210. UNDERGROUND MINE WORKINGS MAPS**

The horizontal and vertical extent of the proposed underground mine workings.

The location and extent of known workings of active, inactive, or abandoned surface or underground mines, including mine openings to the surface.

**211. MINE SUBSIDENCE MAPS**

The location of each subsidence monitoring point.

The location and extent of areas in which planned subsidence is expected to occur.

**212. SURFACE HYDROLOGY AND MONITORING LOCATION MAPS**

The locations of water supply intakes for current users of surface water flowing into, out of, and within a hydrologic area as defined by the Division.

Surface waters which will receive discharges from affected areas.

The location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches.

The designation and location of all surface water monitoring sites.

Each water diversion, collection, conveyance, treatment, storage and discharge facility.

**213. GROUNDWATER HYDROLOGY AND MONITORING LOCATION MAPS**

Location and extent of any subsurface water if it is to be encountered in surface mining. For underground mining, provide the location and extent of subsurface water, including but not limited to the area and vertical distribution of aquifers, faults and potential recharge areas.

The designation and location of all groundwater monitoring sites.

The location of all water well within the hydrologic area as determined by the Division.

**214. GEOLOGIC AND BORE HOLE INFORMATION MAPS**

All coal crop lines and the strike and dip of the coal to be mined.

Delineation of the extent of coal or other minerals removed, if any.

The name, strike and dip for each coal seam.

Test locations for surface geologic sampling.

Elevations and locations of test borings and core samplings for foundation investigations.

**215. MINING OPERATIONS AND SURFACE FACILITIES MAPS**

Delineation of the area to be affected by surface operations and facilities.

The location of each sediment pond, permanent water impoundment, coal processing waste bank, coal processing waste dam and embankment, and disposal areas for underground development waste, excess spoil, and non-coal waste.

Buildings, utility corridors, and facilities to be used.

Each coal storage, cleaning and loading area.

Each topsoil, spoil, coal preparation waste, underground development waste, and non-coal waste storage area and identification and locations of test pits, core samplings and borings.

Each source of waste and waste disposal facility relating to coal processing or pollution control.

Each explosive storage and handling facility.

All face-up and ventilation areas.

Each facility to be used to protect and enhance fish and wildlife related environmental values.

**216. MINING OPERATIONS SURFACE GRADING AND BACKFILLING MAPS**

**217. RECLAMATION OPERATIONS AND SURFACE FACILITIES MAPS**

Each facility to be used to protect and enhance fish and wildlife related environmental values.

Species and distribution of plantings to achieve soil stabilization and thereafter, wildlife enhancement.

**218. PHASED RECLAMATION ACTIVITIES MAPS**

Each area of land for which a performance bond or other equivalent guarantee will be posted.

**219. POSTMINING SURFACE GRADING AND BACKFILLING MAPS**

**220. POSTMINING LAND USE MAPS**

The location of each facility that will remain on the permit areas as a permanent feature.